

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Writ Petition No.13157 of 2004

Date: 06-08-2015

Between:

The Project Director, Directorate of Rice
Research, Rajendranagar, Ranga Reddy District
And another

.. Petitioners

AND

M. Balraj and another

.. Respondents

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Writ Petition No.13157 of 2004

ORDER:

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This writ petition is filed questioning the award dated 12-04-2004 in LCID.No.221 of 2002 passed by the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad, allowing the claim of the petitioner therein directing the respondents therein to engage the petitioner as casual labour on the last drawn pay or whatever pay is payable now within 30 days of the publication of the award.

2. The case of the petitioners herein is that the 1st respondent, who is the petitioner before the Tribunal-cum-Labour Court, filed the case, claiming that he was appointed as a skilled assistant in Farm Section in Directorate of Rice Research, Rajendranagar, Ranga Reddy District, Hyderabad with effect from 08-01-1996 under the control of 1st respondent therein, who is 1st petitioner herein, and the services of the petitioner was orally

terminated on 31-05-2000 without assigning any reason. The petitioner was initially paying Rs.800/- per month, which was enhanced to Rs.1500/- per month and the respondent herein filed I.D.No.64 of 2001 on the file of Labour Court-I seeking reinstatement and later withdrawn the same and that the respondent was not issued any notice or one month wages. Challenging the said action, the respondent filed LCID 221 of 2002.

3. The respondents therein, who are petitioners herein, filed their counter stating that the petitioner was not appointed against any sanctioned post and he was engaged only on need basis and given consolidated payment for the work done and he was never in continuous work as alleged by him; that for the purpose of carrying out agricultural operation related to field, glass house and laboratory etc., and for other supporting units, skilled labourers on contract basis were engaged in the past depending on need based requirement of research scheme taken up from time to time and due to budget constraints and lack of adequate work with effect from 01-06-2000, the respondent company has discontinued the engagement of all contractual workers of this category including the petitioner and that the petitioner was neither a daily related casual worker on muster rolls in order to work against specific sanctioned post nor is he entitled for any notice for termination. The Tribunal, after considering oral and documentary evidence on record adduced by both parties, allowed the claim of the petitioner-respondent herein directing the respondents to engage the petitioner-respondent herein as casual labour on the last drawn pay or whatever pay is payable now within 30 days from the publication of the award failing which he will be entitled to pay with 6% interest after 30 days of publication

of the award, besides further directing to consider whether granting of temporary status and then making him permanent is feasible or not as per rules. Challenging the said order, the present writ petition has been filed.

4. Heard Sri E. Madan Mohan Rao, learned counsel for the petitioners and Sri L. Prabhakar Reddy, learned counsel for the 1st respondent.

5. Learned counsel for the petitioners submits that the Tribunal-cum-Labour Court erred in directing the petitioners herein to engage the 1st respondent herein as casual labour without giving any finding that the termination is bad, as it has no jurisdiction to direct the same; that the 1st respondent worked for 240 days in a calendar year; that the plea of the petitioners herein that the petitioner institute is not an industry was not considered by the Labour Court, as the petitioner institution does not come within the definition of “Industry” as defined under Section 2 (j) of the Industrial Disputes Act, 1947 as the activities undertaken by the petitioner institute is a research activity and has no manufacturing activity to fall within the definition of industry; that the 1st respondent-workman does not come under the definition of “workman” as defined under Section 2 (s) of the Act and that the Labour Court passed the impugned award without recording the objections taken by the petitioner institute and that the order under challenge is erroneous and not sustainable. In support of his contentions, he relied on **the Management of State Farms Corporation of India Ltd., Melchengam West Post, Melpallipattu v. The Presiding Officer, Second Additional Court, Madras and others**^[1].

6. On the other hand, Sri L. Prabhakar Reddy, learned

counsel for the 1st respondent contends that the claim of the petitioners that the 1st respondent herein was engaged in the year 1996, but continued temporarily was not considered by the Labour Court as petitioners failed to produce relevant record that the services of the 1st respondent were discontinued and the burden lies on the petitioners to show that the 1st respondent has not worked for 240 days. He also contends that even the research institute comes under the definition of “industry” as defined under Section 2 (j) of the Act and that the petitioner institute has deliberately withheld the relevant record and hence, the Labour Court has rightly passed the impugned award, which needs no interference.

7. In this case, admittedly, though the petitioner institute raised a plea that it is not an industry within the meaning of Section 2(j) of the Industrial Disputes Act, 1947, which was specifically pleaded before the Labour Court, no such finding has been given nor even any whisper has been made about the same. Whether the petitioner institute is an industry or not is a factual aspect, which can be determined by the Labour Court on proper evidence adduced to that effect on which the entire case falls and it requires a deep probe into the matter about the status of the petitioner institute and on that sole ground, the award of the Labour Court is liable to be set aside. More so, there is no finding that the respondent worked for 240 days.

In view of above facts and circumstances, the award of the Labour Court dated 12-04-2004 in LCID.No.221 of 2002 is set aside and the matter is remitted to the Labour Court for dealing with the same afresh. It is made clear that both the parties shall raise their respective contentions including the issue whether the petitioner institute is industry or not and that since the matter

pertains to the year 2004, the Labour Court shall dispose of the case, as expeditiously as possible, preferably within a period of four (4) months from the date of receipt of a copy of the order, after affording a reasonable opportunity of hearing to both parties.

Accordingly, the writ petition is allowed to the extent indicated above. No Costs. As a sequel thereto, miscellaneous petitions pending, if any, shall stand closed.

A. RAJASHEKER REDDY, J

Date: 06-08-2015

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