

HON'BLE SRI JUSTICE S. RAVI KUMAR

WRIT PETITION No.15439 of 2003

ORDER :

This writ petition is filed challenging the award dated 31.12.2002 in I.D.No.98 of 1999 on the file of Industrial Tribunal-I, Hyderabad.

2. Respondent No.1 herein raised industrial dispute before the Industrial Tribunal-I, Hyderabad, challenging the termination of

1st respondent. Presiding Officer of the Industrial Tribunal on consideration of evidence of both parties held that retrenchment of respondent No.1 herein is in violation of provisions of Section 25-F of Industrial Disputes Act and holding so ordered for reinstatement without back wages. Challenging the said award, Department preferred present writ petition.

3. It is the contention of petitioner that respondent No.1 worked only for short spells between 14.06.1988 and 15.11.1988 and as the P.J.P. Left Canal construction was defunct, respondent No.1 was supplying labour for project work having entered into a contract with the Department and he has not put up requisite 240 days of service and not entitled to invoke the jurisdiction of the Industrial Tribunal and the Presiding Officer of the Industrial Tribunal without considering this aspect accepted the contention of respondent No.1 and treated him as a workman and

ordered for reinstatement. According to petitioner, the Industrial Tribunal gravely erred in awarding the relief, which was beyond its jurisdiction, therefore, the award of the Industrial Tribunal-I, Hyderabad, is liable to be quashed.

4. Heard both sides.

5. Advocate for petitioner contended that the evidence of MW.1 and document Ex.M.1 would clinchingly show that respondent No.1 is not an employee and he was only supplied as labour to the Department and the entries in Ex.M.1 would clearly support the version of the Department, but the Industrial Tribunal discarded the said entries on the ground that it was produced at belated stage and that the findings of the Industrial Tribunal are not in accordance with law.

6. On the other hand, advocate for respondent Nos.3 to 5 submitted that from the evidence of MW.1, it is clear that the deceased-1st respondent was working since 1988 and the entries in Ex.M.1 are only from July, 1994, which are almost six years after respondent No.1 joined service. He further submitted that Industrial Tribunal-I, Hyderabad, by applying G.O.Ms.No.212 dated 22.04.1995 held that respondent No.1 is entitled for regularization of service as he was an employee as on the cut of date i.e., 25.11.1993 and that the Industrial Tribunal has not committed any error and that this writ petition is devoid of merits.

7. I have perused the entire material on record

including the impugned award dated 31.12.2002. Executive Engineer is examined as M.W.1 on behalf of Department. He stated in chief that 1st respondent herein worked as NMR on daily wage casual labour and that wages were paid to him by way of hand receipt. He deposed that after 15.11.1988 1st respondent herein was supplying labour and taking payment on first and final bill forms. MW.1 produced Ex.M.1, which is the final bill in prescribed form to show that respondent No.1 was a contractor and money was paid to him as a contractor. This entry of the year 1994. Department has not produced any material to show that 1st respondent was supplying labour from 15.11.1988 and money was paid to him for such supply. Considering the same, Industrial Tribunal held that it is not possible to believe Ex.M.1 and on that ground discarded it. Here except that Ex.M.1 document, there is no other material for the Department to show that respondent No.1 was not their employee. The Industrial Tribunal has considered each and every aspect answered in with reference to the material on record and on a overall consideration of the entire evidence held that there is relationship of employee and employer between the petitioner and deceased—respondent No.1 and completed five years of continuous service as on 25.11.1993. The Industrial Tribunal directed the Department to regularise the services of petitioner and

further directed to reinstate him into service. However, the Industrial Tribunal has not granted any back wages. I do not find any illegality in the award of the Industrial Tribunal on the other hand it rightly appreciated the material on record and came to a correct conclusion, therefore, the objection of the Department with regard to the award dated 31.12.2002 is not tenable. For these reasons, I am of the view that the writ petition is devoid of merits and liable to be dismissed.

8. Accordingly, this writ petition is dismissed.

9. Miscellaneous Petitions, if any, shall stand closed.

No costs.

S. RAVI KUMAR, J

1st December 2015

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