

THE HON'BLE SRI JUSTICE DILIP B.BHOSALE
AND
THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT APPEAL No.252 OF 2015

P.C: *(per the Hon'ble Sri Justice A. Ramalingeswara Rao)*

This Writ Appeal arises out of the order, dated 31.01.2014, in W.P.No.15010 of 2007 passed by the learned Single Judge allowing the same filed by the 1st respondent herein.

As per the averments of the 1st respondent herein in the Writ Petition filed by her, she was initially appointed as a Casual Labourer (Sweeper) on 31.09.1991 in the appellant - Corporation on monthly wages of Rs.360/- and the appellant used to pay the wages sometimes in her own name and some other times, in assumed names. She also pleaded that she was never engaged through a contractor, though her tenure was mentioned as 'contract' and she continuously worked for more than 240 days. But, in course of time, without the consent of the 1st respondent, the appellant changed her service condition and kept her under the payrolls of a Contractor, namely, M/s.Srinivas & Company, from 1998. Though she worked continuously from September, 1991 to December, 1997, her services were not regularized. Therefore, she approached the Union, which espoused her cause before the State Government and it referred her case under Section 10 (1) (c) of the Industrial Disputes Act, 1947 to the 2nd respondent – Industrial Tribunal. The Tribunal in I.D.No.26 of 2005 examined the case of the 1st respondent and dismissed the same by its award, dated

20.11.2006, holding that the action of the appellant in not regularizing the services of the 1st respondent was justified.

The 1st respondent challenged the said award in W.P.No.15010 of 2007 before the learned Single Judge, who allowed the same by setting aside the award, dated 20.11.2006, of the Tribunal. Challenging the same, the appellant preferred the present appeal.

Learned counsel for the appellant as well as the learned counsel for the 1st respondent produced before this Court, a copy of the order, dated 18.11.2014, in W.A.No.1095 of 2014 and submitted that the Division Bench of this Court in the said case passed the following order:

“... We, therefore, direct that the appellants shall treat the respondent as their permanent employee by extending the pay scale to her, in conforming with the wages stipulated under the Minimum Wages Act or the scale attached to the post of Sweeper in the Corporation, if it exists.”

Learned counsel for the appellant – Corporation agreed to pass the same order in the instant case also.

In view of the consent expressed by both the counsel, we are inclined to dispose of the Writ Appeal by directing the appellant to treat the 1st respondent as their permanent employee by extending the pay scale to her, in conformity with the wages stipulated under the Minimum Wages Act or the scale attached to the post of Sweeper in the Corporation, if it exists.

The Writ Appeal is, accordingly, disposed of.

Consequently, miscellaneous petitions, if any, also shall stand disposed of.

DILIP B.BHOSALE, J

A.RAMALINGESWARA RAO, J

Date:10.03.2015
KH