

HONB'E JUSTICE CHALLA KODANDARAM

WRIT PETITION No.18286 OF 2007

ORDER:

The writ petition is filed challenging the award dated 23.05.2007, passed by the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad in I.D.No.33 of 2005.

The brief facts of the case are that the 1st respondent claimed to have been engaged as a part time casual labourer in the office of the petitioner on 16.06.1993 and she discharged her duties till she was terminated on 14.05.2004. The petitioner's department had decided, as one time measure, to convert part time casual labourers into full time casual labourers vide their letter dated 16.09.1999. Thereafter, the first respondent submitted a representation to the petitioner requesting to convert her services as full time casual labourer, but the same was not considered by the petitioner. Then the 1st respondent approached the Labour Court invoking the provisions of the Industrial Disputes Act, 1947 (for short, "the Act"), on the ground that her termination was done, violating the provisions of Section 25F of the Act and she sought reinstatement with all consequential attendant benefits. The same was contested by the petitioner and urged that the first respondent had not worked for continuous period of 240 days in any spells and it was stated therein that the first respondent worked only as a part time sweeper between 16.06.1993 to August, 2001 and thereafter from June, 2003 to April, 2004. The first respondent worked for four hours per day upto 14.05.2000 and thereafter six hours per day from 15.05.2000. It is stated that the petitioner introduced a scheme called "Casual Labour (grant to temporary status and regularization) Scheme, 1989", under which temporary status would be conferred to the casual labourers employed as on 07.11.1989 and who have rendered a continuous service or at least one year, out of which they must

have been engaged on work for a period of 240 days. The Labour Court on appreciation of the evidence and after considering the material on record found that the first respondent was terminated in spite of the fact that she worked for 240 days and considering the period for which the first respondent worked for more than 10 years as a part time worker invoking the provisions of the Act, it was held that her termination was bad. The Tribunal also directed reinstatement of the first respondent with back wages. It was further observed that the first respondent's case may be considered for conversion into full time worker under the relevant scheme. Questioning the same, the present writ petition is filed.

Sri R.S. Murthy, learned standing counsel for the petitioner contends that the Labour Court had failed to appreciate the crucial fact that the first respondent had failed to satisfy the basic condition of working for a continuous uninterrupted period of 240 days, which is a *sine qua non* for invoking Section 25F of the Act. Learned counsel by placing reliance on the judgments in **Batala Coop. Sugar Mills Limited vs. Sowaran Singh**¹ and **Bharat Sanchar Nigam Limited vs. Bhurumal**² would submit that onus of the 1st respondent, having worked for more than 240 days, vests with the workman. In the present case on hand, the first respondent had failed to fulfill the same.

Having considered the respective submissions, it may be noticed that at the first instance the fact of finding is relevant to the effect that the first respondent had worked for more than 10 years. In coming to the said conclusion, the Labour Court had taken into consideration of the service particulars certified by the General Manager that the first respondent had worked for 190 days in 1993, 273 days in 1994, 337 days in 1995 and 366 days in 1996. Further the total number of days from her initial engagement

¹ (2005) 8 Supreme Court Cases 481

² (2014) 7 Supreme Court Cases 177

from 16.6.1993 to 31.12.2001, the first respondent worked are 2784 days. As a matter of fact, the first respondent had also approached the Central Government Administrative Tribunal-cum-Labour Court seeking regularization of her services by filing L.C.I.D No.33 of 2005. Before the Labour Court, Sri S.P.L.Narasimham, was examined as M.W.1 on behalf of the petitioner office and in his chief affidavit itself, it was admitted that the first respondent had worked from 16.6.1993 to August, 2001 and thereafter from June, 2003 till April, 2004. Even subsequently she worked from 16.6.1993 to 14.5.2004. Further, one of the document which was considered by the Labour Court was the communication dated 05.10.2004 which also go to support the case of the first respondent. In the order dated 13.11.2002 passed by the Central Administrative Tribunal, Hyderabad Bench in O.A.No.935 of 2001, it was recorded that so far as the first respondent is concerned as on 01.10.2002, the first respondent was working and the other material placed on record by the petitioner are supporting the case of the first respondent. The fact that the B.S.N.L had been converted into a company and the same is required to compete with the private operators and considering the very relief of the nature, which is sought in the present case, has been rejected by the Supreme Court is not disputed. In the very judgments referred to by the petitioner in view of reinstatement monetary compensation has been awarded.

In the present case from 23.05.2007, during the pendency of this writ petition, first respondent was being paid at the rate of Rs.3,040/- per month as per the provisions of Section 17B of the Act. In other words, as on date, the first respondent had roughly received a sum of Rs.2,82,112/-. In those circumstances, considering the fact that in the case reported in **Bharat Sanchar Nigam Limited vs. Mansingh**³, a sum of Rs.2,00,000/- was

³ (2012) 1 Supreme Court Cases 558

granted. Like wise, in **State of Uttarakhand and others vs. Suman Pal**⁴, a sum of Rs.2,00,000/- was granted, the compensation of Rs.1,50,000/- would be justified.

In that view of the matter, the writ petition is disposed of with a direction to the petitioner to pay a sum of Rs.1,50,000/- to the first respondent towards compensation. No order as to costs.

Miscellaneous petitions, if any pending in this writ petition shall stand closed.

CHALLA KODANDA RAM,J

Date:19.12.2016.
Gk



⁴ (2016) 11 SCC 305

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