

HON'BLE SRI JUSTICE S. RAVI KUMAR

WRIT PETITION No.4564 of 2003

ORDER:

This writ petition is filed challenging Award dated 23.11.2002 in I.D.No.81 of 2000 on the file of Labour Court-I, Hyderabad.

2. First respondent herein preferred Industrial Dispute (I.D.) before the labour court contending that he worked as Roller Grinding Operator in O.S. Section with writ petitioner establishment continuously from 15.10.1995 to 30.09.1999 besides he worked as Apprentice from 05.10.1993 to 04.10.1995. He contended that his last drawn pay was Rs.2,600/- per month, but petitioner herein terminated the services of first respondent and other employees contrary to the provisions of 25-H of the Industrial Dispute Act (for short "I.D.Act"). Labour Court considering the contentions of first respondent herein and objections of writ petitioner herein and also considering the oral and documentary evidence produced on behalf of both parties, labour Court directed writ petitioner herein to pay a sum of Rs.52,000/- with interest @ 12% per annum as full and final settlement of all claims of first respondent herein (in lieu of reinstatement, back wages and all other attendant benefits). Challenging the said award, present writ petition is filed.

3. Heard arguments.

4. Advocate for petitioner submitted that along with this first respondent, several other employees filed similar petitions before Labour court and the Labour court dismissed all other I.Ds. raised by other employees, but awarded compensation to petitioner herein only on the basis of gate passes. He further submitted that

gate passes are issued to the workmen once in a month to enable their ingress and egress to the premises whenever there is work, therefore reliance cannot be placed on gate passes to calculate number of working days of the workmen. He further submitted that during Sundays, National holidays and festival holidays, factory would remain closed and therefore calculating working days on the basis of gate passes is absurd and illegal. He further submitted that order of the labour court in counting 240 working days on the basis of gate passes is arbitrary, illegal and perverse, therefore the same has to be set aside.

5. On the other hand learned counsel appearing for first respondent submitted that the labour court has rightly granted relief to first respondent as in the year 1998 itself, first respondent herein worked for 240 days, which is calculated on the basis of gate passes issued by petitioner herein and submitted that there is no illegality in the award passed by the labour court and that the objection of writ petitioner is not tenable.

6. I have perused the material papers including award of the labour court. First respondent herein is examined as WW.1. In his evidence, he clearly deposed that he worked in petitioner's factory continuously from 1994 to 1999 and to support his evidence, he produced Ex.W2-ESI card and Ex.W1-bunch of gate passes for different periods. The Presiding officer by considering the gate passes of 1998, calculated the working days and came to the conclusion that first respondent herein worked for more than 240 days in 1998 calendar year and considering the same held that he is protected under Section 25-H of the I.D.Act.

7. The main objection of writ petitioner is that labour Court grossly erred in relying on the gate passes to calculate the

working days. Respondent before the labour Court i.e., writ petitioner herein has not produced any material to rebut the entries in gate passes. Writ petitioner herein being employer ought to have produced the records like muster roll register, attendance register etc., to rebut the entries in the gate passes to disprove that employee has not continuously worked for a period of 240 days in any calendar year. Having failed in producing the appropriate material, writ petitioner cannot complain as to the correctness of entries in the gate passes, which are admittedly issued by writ petitioner. Learned Presiding Officer has elaborately discussed each and every aspect and by relying on judgments of this court extended the benefit under Section 25-H of the I.D.Act to first respondent herein. I do not find any illegality or perversity in the findings of the labour court, nor any arbitrariness in the findings recorded by the labour court. Therefore, there are no grounds to interfere with the award passed by second respondent herein.

8. For these reasons, I am of the view that writ petition is devoid of merits and liable to be dismissed.

9. Accordingly, the Writ Petition is dismissed. No costs. Miscellaneous petitions, if any pending, in this writ petition shall also stand closed.

S. RAVI KUMAR, J

Date: 21-01-2016.

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