

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.1596 of 2011

Date : 27.7.2016

Between :

Station Commander
401 Airforce Station, Suryalanka
Bapatla PO Guntur district and another

Petitioners

And

Sri B Vijayakumar
S/o Sri B Mohan Rao R/o Hyderpet village
Nallamothuvaripalem post
Bapatla mandal, Guntur dist and another

Respondents

The Court made the following:

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ORAL ORDER:

First respondent is employed by the petitioners on daily wage in the Air Force Station. Alleging that he was illegally terminated without following the due procedure, first respondent raised conciliation proceedings. On failure of conciliation proceedings, reference was made to Industrial Tribunal and dispute was assigned L.C.I.D No. 164 of 2003 on the file of the Central Government Industrial Tribunal cum Labour Court, Hyderabad (for short referred to as Tribunal). On detailed consideration of the rival claims, Tribunal held that first respondent acquired the temporary status and entitled for reinstatement as casual labour, Tribunal directed to consider him for regular appointment as and when any permanent vacancy would arise. However, first respondent was denied backwages. Alleging that this award was not complied, first respondent filed E.P. No. 4 of 2007. The defense taken by the petitioners was that even though the first respondent was offered appointment, he refused to join duty. Rejecting the said defense, directions were issued to reinstate the first respondent as casual labour within 15 days from the passing of the said order. Challenging the said order, this writ petition is filed.

2. Learned standing counsel contends that the order of the Tribunal is erroneous. The Tribunal failed to appreciate that award was already implemented and even though the first respondent was asked to report to duty, he did not report. It is further contended that the Tribunal erred in directing the petitioner to reinstate first respondent, when the order of reinstatement was already passed.

3. Except complaining in the above manner, no other substantive question of law is raised.

4. In paras 5 and 6 of the affidavit filed in support of the writ petition, it is specifically averred that first respondent joined the duty on 1.5.2006, but he continuously absented for duty w.e.f. 2.5.2006 to 15.5.2006. On 16.5.2006 he reported for duty but thereafter he remained absent. It is further averred that when a regular vacancy arose, he was considered but having found that the certificates relied upon by him are not genuine, he was not offered regular appointment.

5. In the counter affidavit filed by the first respondent, he denied

assertion of the petitioner. However, there is no denial with reference to the contention of first respondent that he was given appointment as casual labour in accordance with the directions issued by the Tribunal and he joined duty but later on remained absent.

6. It is not in dispute that award was passed by the Tribunal directing reinstatement of the first respondent. This award has become final. Alleging non compliance of the award passed by the Tribunal, the claimant therein filed E.P. No. 4 of 2007. Having noted the contentions of the petitioner that in fact appointment was offered to the first respondent but he refused to join, the Tribunal directed to issue fresh casual appointment order by fixing 15 days time. There was no further direction issued contrary to the award already passed.

7. The affidavit is silent as to the decision for instituting the writ petition. As noted above, the award passed by the Tribunal has become final and therefore, petitioners are bound to comply with the award. If it is the case of the petitioners that first respondent was already appointed in accordance with award, it would thus amount to compliance of the award, and there was no need to make any further appointment. Though, the defense taken by the petitioners was not accepted by the Tribunal as it appears no material was placed before the Tribunal, it is not in dispute that first respondent did not make further complaint to Industrial Tribunal alleging non compliance of the order. No justification is shown by the petitioners to institute this writ petition assailing the consequential order passed by the Tribunal arising out of the Industrial Dispute, where the award has become final. This is nothing but frivolous litigation instituted by the petitioners. Writ Petition is dismissed with costs quantified at Rs.5,000/- (Rupees five thousand only). Having regard to the same, miscellaneous petitions, if any pending, are dismissed.

P NAVEEN RAO,J

DATE: 27.7.2016
TVK

HONOURABLE SRI JUSTICE P. NAVEEN RAO

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