

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.2452 OF 2001

ORDER:

This writ petition, filed under Article 226 of the Constitution of India, challenges the award dated 08.09.2000 passed by the Labour Court, Guntur, in I.D.No.184 of 1996.

2. Heard and perused the material available before the Court.

3. According to the petitioner, he was initially appointed as Home Guard by the 3rd respondent in the year 1984 and subsequently, on 04.03.1993, on the request of the 2nd respondent herein, petitioner herein was asked to work in the 2nd respondent organisation as a Security Guard and subsequently, the 2nd respondent relieved him on 08.04.1996, to attend the election duty. It is the further case of the petitioner herein that after conclusion of the election duty, he was not taken back by the 2nd respondent organisation, despite his representation dated 16.04.1996. In the above background, the petitioner herein raised the present I.D.No.184 of 1996 under the provisions of Section 2(A)(2) of the Industrial Disputes Act. The Industrial Tribunal/Labour Court, Guntur, dismissed the said industrial dispute by virtue of an award dated 08.09.2000. Challenging the validity and legal sustainability of the said award passed by the Labour Court, Guntur, the present writ petition came to be instituted.

4. It is contended by the learned counsel for the petitioner that the award passed by the Labour Court is erroneous, contrary to law and opposed to the very spirit and object of the provisions of the Industrial Disputes act, 1947. It is further submitted that the findings recorded by the Labour Court are contrary to the material available on record and

the Tribunal grossly erred in rejecting the claim of the petitioner on untenable grounds. It is the further submission of the learned counsel that the Tribunal erred in holding that in the absence of any termination by the respondents, the question of deciding the validity of the same would not arise. It is also the submission of the learned counsel that during the pendency of the writ petition, petitioner herein made a representation to the respondents requesting to take back him into duty. It is also stated by the learned counsel that for certain period, during which the petitioner worked in the 2nd respondent organisation, he was not paid the amounts also.

5. The Labour Court, basing on the material available on record, framed the following three points for consideration:

- a) Whether there is any termination of service of the applicant as alleged?
- b) If so, the said termination is legal and valid?
- c) If not, what relief the applicant is entitled?

6. During the course of enquiry, the petitioner herein examined himself as WW1 and filed Exhibits W1 to W11 and on behalf of the 2nd respondent herein, nobody was examined and no evidence was adduced.

7. There is absolutely no dispute with regard to the fact that the petitioner herein was initially appointed by the 3rd respondent as Home Guard and was asked to work with the 2nd respondent, on deputation, as a Security Guard. On the request of the 3rd respondent on 08.04.1996, the petitioner herein was relieved by the 2nd respondent to attend the election duty. Taking into consideration the above aspects, the Labour Court eventually held that the act of relieving the petitioner from duty on the request of the 3rd respondent parental department would not tantamount to termination of the applicant from service, as such, question of deciding validity of the

same does not arise. It is a settled and well established proposition of law that the said finding of fact recorded by the Labour Court, in the absence of any perversity in the said findings, cannot be disturbed under Article 226 of the Constitution of India. This Court also does not find any infirmity in the impugned award.

8. For the aforesaid reasons, Writ Petition is dismissed, confirming the award passed by the 1st respondent in I.D.No.184 of 1996, dated 08.09.2000. However, this order will not preclude the petitioner from making appropriate representation to the respondents 2 and 3 for payment of alleged arrears for the period he worked and if any such representation is made, the same be considered and appropriate action be taken, in accordance with law.

9. Miscellaneous petitions pending consideration, if any, in the Writ Petition shall stand closed in consequence. No order as to costs.

A.V.SESHA SAI, J

21.07.2016
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