

***HON'BLE SRI JUSTICE CHALLA KODANDA RAM**

+ WRIT PETITION No.12361 OF 2006

%21.11.2016

B. Seshaphani Rao and others

..... Petitioners

And

Chairman & Managing Director, Food Corporation of India, New Delhi
and others.

.....Respondents

! Counsel for the petitioners: Sri Abhinand Kumar Shavili

^ Counsel for the respondents 1 to 3: Sri G. Jayaprakash Babu,
Standing Counsel for the Food
Corporation.

^Counsel for the 4th respondent: Sri B. Narayana Reddy,
Standing Counsel for the Central
Government.

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> Head Note:

? Cases referred: Nil



THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.12361 OF 2006

ORDER

The writ petition is filed questioning the order dated 16.11.2015, passed by the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad in M.P.No.292 of 2003, rejecting the claim made by the petitioners in terms of Section 33(C)(2) of the Industrial Disputes Act, 1947 (for short, "the Act").

It is the case of the petitioners that they were employed by the respondents-Corporation in the years 1976 to 1978 and after the prolonged litigation by virtue of the orders of this Court, a settlement was reached on 01.11.1998 under the provisions of the Act in W.P.No.5623 of 1995 directed the consideration of regularisation of the petitioners and as the same was not considered and rejected once again W.P.No.20484 of 1997 was filed and the same was disposed of by an order dated 16.3.1999 directing to regularise the services of the petitioners with effect from 23.7.1999, 24.11.1999 and 6.12.1999 respectively. By the time, the petitioners came to be regularised the services, the respondents-Corporation had introduced the pension scheme on 25.7.1996 which require a minimum service of ten years for a person to be eligible to avail the pension scheme. Petitioners ought to have been regularised in the year 1976-77 itself. However, the respondents have unreasonably denied the regularisation and it is only after prolonged legal battles petitioners were regularised with effect from the respective dates in 1999 and in the process petitioners did not have the required qualifying tenure to avail the benefit of pension scheme which has been notified by the Corporation. In those circumstances, the petitioners approached the Labour Court by filing M.P.No.292 of 2003 invoking Section 33(C)(2) of the Act which came to be dismissed by the Labour Court erroneously. The Labour Court ought to have taken into consideration of the language

under Section 33(C) (2) of the Act which provides for independent adjudication of the entitlement of the benefits. However, the Labour Court erroneously relied on Section 33 (C) (2) of the Act and dismissed the application made by the petitioners holding that the relief that was claimed by the petitioners was outside the scope of the Section 33 (C) (2) of the Act.

Sri G. Jaya Prakash Baby, learned counsel for the respondent-Corporation submits that there is no error committed by the Labour Court and the relief which was sought by the petitioners being outside the settlement the Labour Court rightly refused to grant the same.

The controversy lies in narrow compass. Though the learned counsel for the petitioners had narrated copiously, the respective facts emanating from 1976, the same are not really relevant for the purpose of disposal of the writ petition. The claim of the petitioners was made under Section 33 (C) (2) of the Act. To invoke Section 33 (C) (2) of the Act, the right of a person should emanate either from the settlement made under the Act or an award under the provisions of the Act or a case falling within the Chapter VA or V B of the Act. In the present case, the Labour Court had taken into consideration of the fact that in the settlement arrived at between the petitioner-workmen and the respondent-Corporation on 01.11.1998, the aspect of pension was not covered. This aspect of the matter is not being disputed by the learned counsel for the petitioners. It may be noted that the argument of the learned counsel for the petitioners that the relevant provision is Section 33(C)(2) of the Act appears to be attractive at first blush and however, on a close scrutiny of the provision in Section 33(C)(2) of the Act as a whole does not allow such argument to be accepted. It is only in case where Section 33(C)(1) of the Act applies, Section 33(C)(2) of the Act would come into play and the same is an executing provision and the entitlement aspect is

concerned, Section 33(C)(1) of the Act is the provision governing. In those circumstances and in the admitted facts of the present case relief claimed by the petitioners before the Labour Court not being covered under the settlement, the Labour Court rightly dismissed the application filed by the petitioners and I see no reasons to interfere with the same.

Accordingly, the writ petition is dismissed. No order as to costs. Miscellaneous Petitions, if any pending in this writ petition shall stand closed.

CHALLA KODANDA RAM,J

Date:21.11.2016,

Note:

L.R copy to be marked.

B/o.

Gk.



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Date:21.11.2016

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