

These two writ petitions are filed challenging order dated 30-7-2002 in I.D.No.453 of 1999. Sadiq Hussain (Respondent in W.P.No.12116 of 2003) approached Industrial tribunal for the relief of reinstatement into service, back wages and other attendant benefits. Employer resisted claim of employee and the Industrial Tribunal on a consideration of material on record held that employee is entitled for reinstatement into service but held that he is not entitled for any back wages or continuation of

service. Aggrieved by the denial of back wages and continuity of service employee filed Writ Petition No.12116 of 2003 and aggrieved by the order of reinstatement, Department filed writ Petition No.13874 of 2003.

Parties are hereinafter referred to as 'employee and employer' (Employer means writ petitioner in W.P.No.12116 of 2003 and employee means writ petitioner in W.P.No.13874 of 2003).

It is the contention of employee that he was appointed by Working Plan Officer, Conservator of Forests as Night Watchman in July, 1996 in their office at Mahabubnagar. According to him, he continued in the same cadre and thereafter, he was shifted to Hyderabad and he was getting Rs.24/- per day. According to him, he worked for five years as Night Watchman and the office was shifted to Hyderabad. Thereafter, District Forest Officer, Mahabubnagar orally terminated his service on the ground that his services are no more required. According to him, he worked for more than 240 days and termination without applying Section 25-F is illegal.

On the other hand, it is the contention of employer that Forest Department is not an industry under Section 2-J of Industrial Disputes Act, therefore, the Labour Court-cum-Industrial Tribunal has no jurisdiction to entertain the petition. According to employer, remedy of employee is to approach A.P.Administrative Tribunal. It is contended that employee did not work continuously and also did not work at Hyderabad, and not entitled for any relief.

Now the point that would arise for my consideration in these writ petitions is whether the award of the Industrial Tribunal-cum-Labour Court, is legal, correct and proper?

POINT:

Heard both sides.

Both advocates vehemently argued supporting the contentions of their respective parties.

The main contention of the employer-department is that Industrial Tribunal has no jurisdiction as the department

was not an industry within the meaning of Section 2-J of Industrial Disputes Act.

Both sides submitted that this controversy is settled by legal pronouncements and as per settled law, Forest Department also comes under the definition of 'industry' and therefore, there is no need to decide that aspect. In view of the settled legal pronouncements and the submissions of both sides, the objection of Department with regard to jurisdiction of Industrial Tribunal-cum-Labour Court is not at all tenable.

Now the other aspect is objection of employee for not granting continuity of service and back wages. Even as per the case of employee, he was getting Rs.24/- per day and he is a daily wage employee.

Learned Presiding Officer of the Labour Court while finding fault with the employer, terminated the employee without Enquiry and without following Section 25-F ordered for reinstatement. With regard to back wages, Labour court observed that employee being a daily wage earner, he is not entitled for back wages on the principle, 'No work No pay'. It is also observed that as the employee is only a daily wager, the question of continuity of service will not arise.

Now it is the contention of the Advocate for employee that when the department has not complied with the orders of the Industrial Tribunal, employee filed E.P. for attachment of vehicles of conservator of Forests, then the department filed W.P.No.11107 of 1996 and obtained suspension orders but subsequently the said order is made absolute on the condition that employee will be reinstated into service and that the Department filed Writ Appeal No.183 of 1998 against the interim order but subsequently, Writ Appeal was dismissed by order dated 15-3-2002 confirming the order of the learned single Judge directing the Labour Court-cum-Industrial Tribunal to dispose of main case within four months. He submitted that in spite of that, Labour Court has not granted any back wages, therefore, order of the Labour Court is illegal and contrary to the

principles of Industrial disputes.

I have perused the entire material and impugned order dated 30-7-2002. When the employee is a daily wager as rightly observed by Labour Court, the question of continuity of service will not arise. In case of daily wages, employee will get wage only for the day on which he turned out the work. So on the principle of 'No work no pay', the Labour Court rightly refused back wages and I do not find any wrong in the order of the Labour Court-cum-Industrial Tribunal.

On a scrutiny of material, I am of the considered view that there is no illegality in the order of the Labour Court to be interfered by this court while exercising the powers under Article 226 of the Constitution.

For these reasons, I am of the view that both the writs are devoid of merits and liable to be dismissed.

Accordingly, these two Writ Petitions are dismissed.
No costs.

As a sequel to the disposal of this appeal, Miscellaneous Petitions, if any, pending, shall stand dismissed.

JUSTICE S.RAVI
KUMAR

Dated 1-6-2016.
Dvs.

HONOURABLE SRI JUSTICE S.RAVI KUMAR

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WRIT PETITION Nos.12116 OF 2003

&

13874 OF 2003

Dated 1-6-2016

Dvs