

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

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WRIT PETITION No.331 of 2010

Between:

Golaganta Satyanarayana.

....Petitioner

and

The New India Assurance Company Limited,
Srikakulam, Represented by its Divisional Officer,
Opp:Surya Mahal, Srikakulam,
Srikakulam District,
And others.

....Respondents

JUDGMENT PRONOUNCED ON : 16.03.2016

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO :

1. Whether Reporters of Local newspapers : Yes
may be allowed to see the Judgments?
2. Whether the copies of judgment may be : No
Marked to Law Reporters/Journals?
3. Whether Their Ladyship/Lordship wish to : No
see the fair copy of the Judgment?

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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ORDER:

The petitioner claims to be a workman under the first respondent from 14.09.2000 to 15.03.2002 continuously without any break as Messenger-cum-Office boy on daily wages. He states that on 15.03.2002 he was asked orally not to attend the office without assigning any reason. Challenging the oral retrenchment, he filed I.T.I.D(C).No.45 of 2002 before the Industrial Tribunal – cum - Labour Court at Visakhapatnam against the management alleging that his retrenchment

was violative of Section 25F of the Industrial Disputes Act. The said case was transferred to the Central Government Industrial Tribunal – cum – Labour Court at Hyderabad, and renumbered as Industrial Dispute L.C.No.123 of 2004. Before the Labour Court, the petitioner got himself examined as WW1 and marked Exs.W1 and W2. He also examined one tea stall owner as WW2. The management examined its Senior Assistant as MW2, apart from examining MW1, and marked Exs.M1 to M3. On the basis of the evidence, oral and documentary, the Tribunal came to the conclusion that there was no proof of any monthly payment, except for the months of April and May 2001. The vouchers filed before the Labour Court showed that the petitioner was paid Rs.50/- on daily wage basis whenever his services were utilized depending on the exigencies of work for the upkeep of the office. The Tribunal gave a finding that the vouchers did not prove that the petitioner was paid full month salary in any month of the year. Accordingly, it rejected the case of the petitioner that he worked from 14.09.2000 to 15.03.2002. The evidence of WW2 was disbelieved, as he could not file any voucher in support of his plea that he used to supply tea to the staff members of the first respondent office. The Tribunal noticed that the respondents admitted the utilization of the services of the petitioner to supply tea and snacks to the employees and for office cleaning purposes whenever it was required by them. Thus, the Tribunal gave a finding that the petitioner was neither appointed to work as office boy or messenger nor was he engaged for any work of the respondent on regular or temporary basis. Accordingly, it dismissed the case of the petitioner by award dated 16.02.2009. Challenging the same, the present Writ Petition is filed.

The evidence recorded by the Tribunal showed that the petitioner himself admitted that he was not given any order of appointment and he has also not stated in his claim statement about existence of any order of appointment. It is also an admitted case that he did not sign either in the salary register or in the attendance register. But, he stated that his

signature was obtained on the vouchers. It also came in the evidence that he worked in the office of RTA for some time and filed a case against them. The Tribunal noticed that though he denied the suggestion of the management that he was not appointed as messenger-cum-office boy, he was a tea supplier to the officials of the respondents.

The Tribunal held that the petitioner was not able prove by any cogent documentary or oral evidence that he was appointed on 14.09.2000, as alleged by him. The vouchers filed by the management at the instance of the petitioner also showed occasional payments on different dates, which are obviously for the purpose of miscellaneous services. There is no fixed payment of remuneration for the services rendered by the petitioner and, as opined by the Tribunal, the services of the petitioner might have been availed casually and on different occasions. In the absence of any evidence of rendering services for continuous period of 240 days, the petitioner cannot claim the relationship of master and servant and also maintain the petition alleging that his retrenchment was in violation of the provisions of the Industrial Disputes Act. In the absence of any evidence, it cannot be held that the order of the Tribunal is perverse.

The Writ Petition is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

16.03.2016
vs