

**The Hon'ble Sri Justice C.V.Nagarjuna Reddy**

**and**

**The Hon'ble Sri Justice G.Shyam Prasad**

**Writ Appeal No.875 of 2016**

**Date: 19.09.2016**

**Between:**

P.Bala Swamy

**..Appellant**

**and**

The Telangana State Industrial Infrastructure Corpn., Ltd.,  
rep. by its Zonal Manager (Engineering)  
Pashamylaram, Medak District and 2 others

**..Respondents**

**Counsel for the Appellant:**

**Mr.G.Ravi Mohan**

**Counsel for respondent Nos.1 & 2:**

**Mr.L.Prabhakar Reddy,  
SC for Telangana State Industrial  
Infrastructure Corporation Limited**

**The Court made the following:**

**Judgment:** (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This Writ Appeal is filed against Order, dated 16-12-2015, in WP.No.16847 of 2004 whereby the learned Single Judge has allowed the Writ Petition filed by respondent Nos.1 and 2 and set aside the award, dated 15-05-2004, of the Labour Court- II, Hyderabad, published *vide* GO Rt.No.934, Labour Employment and Training and Factories (LAB.I) Department, dated 10-06-2004.

We have heard Mr.G.Ravi Mohan, learned Counsel for the appellant, and Mr.L.Prabhakar Reddy, learned Standing Counsel for the Telangana State Industrial Infrastructure Corporation Limited, appearing for respondent Nos.1 and 2, and perused the record.

The claim of the appellant before the Labour Court was that he was appointed as non-technical Work Inspector by respondent Nos.1 and 2 in October, 1994; that he was allowed to work as such for a period of six years; and that on 01.03.2000, his services were terminated by respondent No.2.

In support of his plea, the appellant has filed Ex.W.1- Certificate stated to have been issued by MW.2 while he was

working as Incharge Assistant Zonal Manager. Though MW.2 has denied having issued the said Certificate, the Labour Court did not believe his evidence on the ground that there was some vacillation in his deposition on the said issue and it has also drawn an adverse inference against respondent Nos.1 and 2 for not producing the record during the relevant period.

While partly allowing the dispute raised by the appellant, the Labour Court has directed his reinstatement with continuity of service but without back wages. Feeling aggrieved by the said award, which was notified by the Government, respondent Nos.1 and 2 have filed WP.No.16847 of 2004.

On a thorough consideration of the facts and the evidence on record, the learned Single Judge has set aside the award of the Labour Court by holding that the appellant has failed to establish the employer-employee relationship.

The learned Counsel for the appellant submitted that the learned Single Judge has committed a serious error in appreciating the finding of fact arrived at by the Labour Court on the evidentiary value of Ex.W.1 and the factum of employer-employee relationship.

While it is true that ordinarily, a finding of fact is not liable for interference by the High Court in a Writ Petition filed under Article 226 of the Constitution of India, if such finding is not based on evidence, it can certainly interfere.

MW.2, who is purported to be the author of Ex.W.1, has denied having issued such Certificate. Moreover, the learned Single Judge has found that MW.2 worked on deputation as Assistant General Manager till 10-06-1998 and that by the time Ex.W.1 was purportedly issued, he was not the Assistant General Manager. This crucial fact was not taken into consideration by the Labour Court.

We have also gone through the contents of Ex.W.1-Certificate, which read as under:

“TO WHOMSOEVER THIS MAY CONCERN

The services of Sri P.Balaswamy have been provided on contract basis as non-technical work inspector (with SSC qualification) for the period from 1<sup>st</sup> September, 1996 to till to date assist during execution of civil works like WOM Roads and storm water drains group-I and II at IDA Pashamylaram, Phase-III, 50000 gallons sump, Ph-III Pashamylaram, store shed-cum- section office Ph-III, Pumping main rom 9 nos bore wells, Ph-III, Pashamylaram service centre-cum-Administn. Buldg. At Ph-III, Oil seed godowns at Narsapur, Jogipet & Habnoora etc.

He is reliable hard working and sincere.

Sd/- Assistant Zonal Manager (E)”

Even assuming that Ex.W.1 is genuine, it is stated therein that the services of the appellant “have been provided on contract basis” as non-technical Work Inspector. *Ex facie*, this Certificate does not show that the appellant was appointed by respondent Nos.1 and 2 as non-technical Work Inspector. A person, who is supplied by a contractor for rendering services, cannot be termed as the employee and he cannot claim the employer-employee relationship based on the services rendered by him. Even otherwise, if the appellant was appointed directly by respondent Nos.1 and 2 as non-technical Work Inspector, there was no reason why he has not filed the appointment order. Similarly, he did not file any piece of document showing remittance of wages by respondent Nos.1 and 2 during the period between 1994 to 2000. On these facts of the case, the learned Single Judge was justified in interfering with the award of the Labour Court. Hence, we do not find any reason to interfere with the well considered order of the learned Single Judge in exercise of our Letters Patent jurisdiction.

For the afore-mentioned reasons, the Writ Appeal fails and the same is, accordingly, dismissed.

As a sequel to dismissal of the Writ Appeal, WAMP.No.2073 of 2016, filed by the appellant, for interim relief, is disposed of as infructuous.

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(C.V.Nagarjuna Reddy, J)

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(G.Shyam Prasad, J)

Dt: 19<sup>th</sup> September, 2016  
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