

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.4606 of 2009

ORDER:

Heard learned counsel for the petitioner and the learned Government Pleader for Labour for the respondents.

This writ petition was filed challenging the Award, dated 21.11.2008, passed by the Labour Court-III, Andhra Pradesh, Hyderabad, in I.D.No.34 of 2007.

The case of the petitioner is that he worked as a Gangman under the control of respondent No.4 from 01.05.1989 to 1991. While so, he was transferred to the guest house situated at Achampet. He was taking care of the maintenance of the guest house. Though the services of other persons on par with the petitioner were regularized by respondent No.4, when the services of the petitioner were terminated on 30.08.2001 without assigning any reason, he filed the above stated I.D. In the I.D., he was examined himself as WW1 and examined two Work Inspectors as WWs.2 and 3. The respondents examined the Deputy Executive Engineer as MW1. The petitioner filed Exs.W1 to W6 and the respondents did not file any document. On the basis of the said oral and documentary evidence, the Labour Court dismissed the I.D.

Learned counsel for the petitioner submits that though WWs.2 and 3 deposed in favour of the petitioner in respect of his working, the said fact was not taken into consideration by the

Labour Court and the Labour Court erred in dismissing the I.D. filed by the petitioner.

In those circumstances, this Court called for the record from the Labour Court and verified the depositions of WWs.2 and 3. Though WWs.2 and 3 deposed with regard to the rendering of service by the petitioner, there is no concrete evidence with regard to his employment and no record was summoned from the respondents. The Labour Court dismissed the I.D. with the following observations:

“In the case on hand, the petitioner examined himself and WW2 and WW3 and attempted to prove his employment with respondents. Both WW2 and WW3 could speak of service of petitioner in guest house but in cross-examination denied their knowledge of wages whether paid to the petitioner. Case of petitioner is that he worked first as Gangman and like himself several others worked as Gangamen. None that worked along with petitioner as Gangman was examined. Gangman or other employees employed on wages is paid from State Exchequer provided not employed through contractors. When the petitioner, as per him, directly appointed as Gangman, the respondents or any of them would not have paid the wages to petitioner from their pocket. The evidence of MW1 shows that how payment is made, “it is true if wages are paid by voucher payment there used to be register called the Accounts Register....”. It is for the petitioner to prove, when respondents denied flatly that the petitioner never worked in their offices, that he worked.

Only evidence that petitioner could prove in proof of his employment is photos in Exs.W1 to W3. In these photos the petitioner is seen and therefore they are proof of his service with the respondents is the argument of petitioner. In photos guest house is not seen and from photos it is not able to see the petitioner serving in guest house. None is examined to prove the photos are relevant to believe employment of petitioner in guest house or as a Gangman.”

On the basis of the evidence adduced before the Labour Court, the observations cannot be called as perverse. But, there is scanty evidence with regard to the working of the petitioner in the guest house and the petitioner could not prove his case. Hence, this Court feels that it is a fit case for remanding the matter to the Labour Court for deciding the case afresh by giving an opportunity to the petitioner to adduce additional evidence, if any, in support of his case.

Therefore, the writ petition is allowed, setting aside the Award, dated 21.11.2008, passed by the Labour Court, and the matter is remanded to the Labour Court for consideration afresh in accordance with law. It is made clear that the parties are entitled to adduce additional evidence in support of their respective cases.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO,J

Dt:19.07.2017

kdl

