

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE DR JUSTICE SHAMEEM AKTHER

WRIT APPEAL NO.113 OF 2017

JUDGMENT: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

This appeal is preferred against the interlocutory order passed by the learned Single Judge in WPMP.No.55263 of 2016 in WP.No.44806 of 2016 dated 22.12.2016.

WP.No.44806 of 2016 was filed by the appellants herein questioning the award passed by the Labour Court-II in ID.No.6 of 2013 dated 17.06.2013. By the order under appeal, the learned Single Judge granted interim stay of all further proceedings including execution of the award dated 17.06.2013 in ID.No.6 of 2013 passed by the second respondent, subject to the petitioners complying with Section 17B of the Industrial Disputes Act, 1947 ("the Act" for brevity).

Learned Government Pleader for Medical and Health would submit that the petitioner was engaged as a contingent employee under the scheme formulated by the Central Government; the earlier scheme, which provided for contingent employment, has since been reduced from three to two contingent employees; consequently the services of the respondent was no longer required; the respondent does not satisfy the definition of a 'workman'; as the Tribunal lacks jurisdiction, the impugned award is a nullity; and the learned Single Judge ought not to have directed payment, of last drawn wages, under Section 17B of the Act.

In its award, the Labour Court has held that the appellants had miserably failed to prove that the strength of the contingent workers were reduced from 3 to 2; and they had failed to follow the procedure contemplated under Section 25G and Section 25F of the Act while retrenching the petitioner. It is on this ground that the Labour Court held that the appellants were liable to reinstate the petitioner; and, as he was a contingent worker, he was not entitled for any back wages but his service, with effect from the year 2000 till reinstatement, shall be considered for the purpose of considering his candidature for regularization or for calculating his terminal benefits.

The definition of a 'workman' under Section 2(s) of the Act is wide, and means any person, including an apprentice, employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied. Certain categories of workman are excluded from the definition. It is not even the case of the appellant that the respondent falls within any of the four excluded categories. While this question also necessitates examination in the Writ Petition, we must bear in mind that the appellants have invoked the jurisdiction of this Court under Clause 15 of the Letters Patent, and the scope of interference, in an intra-Court appeal, is limited.

The Learned Single Judge has merely directed the appellants herein to follow Section 17B of the Act. Section 17-B stipulates that, in cases where the Labour Court directs reinstatement of a workman and the employer prefers any proceedings against such award in the High Court, he shall be liable to pay, during the

pendency of proceedings in the High Court, full wages last drawn by the workman. The legislative intent, in introducing Section 17B of the Act, is to provide succour to the workman and enable him to survive during the pendency of proceedings before this Court. We find no error in the order under appeal, in directing the appellant to pay the respondent wages under Section 17-B of the Act, much less any patent illegality necessitating interference under Clause 15 of the Letter Patent.

The Writ Appeal fails and is, accordingly, dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand dismissed.



(RAMESH RANGANATHAN, ACJ)

(DR. SHAMEEM AKTHER, J)

25th January 2017
RRB