

HON'BLE SRI JUSTICE S.V. BHATT

W.P.Nos.25130, 24625, 24630, 24719 & 24940 OF 2003

COMMON ORDER:

Heard Mr.A.K.Jayaprakash Rao for petitioners, Mr.K.Lakshman for respondents 2 and 3 and Mr. C.R.Sidharan for 4th respondent.

The petitioners in these writ petitions are different individuals whereas respondents are common. The petitioners challenge awards dated 30.12.2002.

The petitioners pray for writ of Certiorari to call for the records leading up to and inclusive of Award Nos.259, 253, 257, 258 and 252 of 2000 respectively on the file of the Presiding Officer, Labour Court-I, Hyderabad, and quash the same as illegal and unsustainable.

Workmen are the petitioners. The workmen in these writ petitions challenge the awards granting compensation by the Labour Court in lieu of reinstatement. Learned counsel have referred to the circumstances in W.P.No.25130 of 2003 and have consented that reference to these details would be sufficient for disposing of other writ petitions as well.

The case of petitioners is that petitioners joined as casual labour in Respondent No.3/DAI-ICHI Laboratories, 28 A, IDA Nacharam, Hyderabad on different dates in 1997. The petitioners claim to have continuously worked till 30.12.1998 on which date the petitioners were terminated from service without following the procedure prescribed under Section 25-F of the Industrial Disputes

Act, 1947 (for short 'the Act'). The remedies pursued by the petitioners by issuing legal notice or moving the authorities under the Act and the Contract Labour (Regulation and Abolition) Act, 1970 did not yield result. Hence, the present petitions under Section 2-A(2) of the Act were filed.

The respondent management opposed the IDs firstly by contending that the IDs are not maintainable. The engagement of petitioners as casual labour was on day-to-day basis, particularly having regard to the availability of work etc. According to the respondent management, the relationship between the petitioner and the management admits discontinuation of service from 20.02.1999. The engagement of workmen was in a construction site. It is further alleged that the management has taken few steps to conform to the requirement of Section 25-F of the Act and the petitioners did not accept the same. The job of petitioners is not permanent or perennial. The respondent prays for dismissing the IDs.

The parties have let in oral and documentary evidence.

The 1st respondent framed the following points for consideration:

1. Whether the petitioner worked for 240 days within 12 months prior to the date of alleged termination?
2. What is the date of termination and whether the termination is legal?
3. Whether the petitioner worked in the factory or in the construction of R & D building?
4. Whether the petitioner is a casual labour?

5. Whether the petitioner was gainfully employed after retrenchment?
6. Whether the petitioner is entitled to the reliefs of reinstatement and other benefits as prayed for?
7. If so, to what reliefs?

The 1st respondent has accepted that the petitioners have worked for 240 days and the date of termination is 30.12.1998; the parties have failed to establish the nature of work executed by the petitioners herein. The Labour Court has found that the termination or discontinuation of petitioners violates Section 25-F of the Act. On point No.6, the Labour Court relied upon a few decisions, including V.B.RAO v. STEEL AUTHORITY OF INDIA LIMITED AND ANOTHER¹ and granted compensation in lieu of reinstatement etc. Hence, the writ petitions.

Mr.Jayaprakash Rao contends that in view of the favourable findings recorded in favour of the petitioners on issues 1 to 5, moulding of relief by the Labour Court does not satisfy the requirement of Section 11-A of the Act and, therefore, he prays for reinstatement with all benefits. Alternatively, he submits that the amount deposited by the respondent-management towards compensation is not allowed to be withdrawn by the Labour Court in view of the pendency of the writ petition.

Mr.Lakshman, on the other hand, contends that the 1st respondent has given full effect to the discretion conferred on Labour Court by Section 11-A of the Act. The finding of the

¹ AIR 1991 SC 1742

1st respondent is that neither party could satisfactorily show that the petitioner was engaged for any specific purpose. Reinstatement of an employee, particularly a casual labour, is not a matter of course. He strongly relies on the findings of fact recorded by the Labour Court and submits that the writ petitions are liable to be dismissed.

I have taken note of the submissions of learned counsel and perused the record.

Now the short point consideration is - whether the petitioners have made out a case for reinstatement or not?

The circumstances already referred to are not stated again for the sake of brevity. The petitioners were appointed as casual labour. The petitioners are not qualified to do regular work in a bulk drug industry. It is because of this reason the 1st respondent though accepted that the petitioners were working as casual labour, but as no material is placed on record showing the nature of job performed by them and further realising the possibility of immediate termination after reinstatement, granted compensation. Thirty months salary is granted as compensation. In my considered view, the petitioners have worked for over one and quarter of an year and the Labour Court has taken note of the totality of circumstances and directed payment of 30 months salary at Rs.38,175/-. The reasons for not ordering reinstatement are sound and tenable. Once the reasons for not ordering reinstatement are found to be sound and tenable, this Court to consider the quantum of compensation granted to petitioners whether can be treated

as sufficient compensation or not. The petitioners in all have worked for about 14-18 months. The 1st respondent by way of compensation granted double the salary for each working month to petitioners. For the above reasons and also, in my considered view, no exception to the quantum can be raised by petitioners.

It is brought to the notice of the Court that in spite of conditional order, the petitioners were not permitted to withdraw the amount directed to be withdrawn by Labour Court. The statement, if is true, is matter of concern, for the petitioners could not get benefit of compensation granted by the Tribunal. Therefore, while dismissing the writ petitions, to meet the ends of justice, this Court considers it appropriate to direct the 1st respondent to take all steps necessary as and when applications are filed for withdrawing the amount deposited together with interest and pass orders within four weeks from the date of receipt of copy of such applications. It is made clear that the amount, if any, deposited before the Tribunal shall be repaid together with accrued interest. The petitioners are at liberty to enclose copy of this order as and when such an applications are moved before the 1st respondent.

With the above observation, the writ petitions fails and are, accordingly, dismissed. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any pending, stand closed.

S.V.BHATT, J

12th April, 2017
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