

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.No.7493 of 2000

ORDER:

Heard Sri K.Govind, learned counsel for the petitioner and Sri Battula Rajkiran, learned Standing Counsel for 1st respondent.

2. This Writ Petition is filed by the petitioner challenging the action of the 1st respondent in terminating his services orally on 14-11-1994. He also seeks a direction to the respondents to reinstate him into service w.e.f. 14-11-1994 with continuity of service, backwages and attendant and consequential benefits by setting aside the same and also to set aside the award dt.23-07-1998 in I.D.No.22 of 1997 of 3rd respondent.

3. Petitioner was engaged as casual labour on daily wages from October 1992 to November 1994 without being issued any appointment letter and his services were orally terminated w.e.f. 14-11-1994. At his instance, a reference was made under Section 10 (1) (d) and 2 (A) of the Industrial Disputes Act, 1947 to decide the following dispute.

“Whether the action of the management of LIC of India in terminating the services of Shri P.Srihari, ex-temporary sub-staff w.e.f. 14-11-1994 is legal and justified? If not, to what relief the said workmen is entitled?”

4. This was registered as I.D.No.22 of 1997 before the Industrial Tribunal at Hyderabad.

5. In the course of the pendency of the said I.D. before the Industrial Tribunal, it came to light that a similar issue was then pending before the Central Government Industrial Tribunal (CGIT), arising out of pleas made by similar employees of the LIC of India before the Mumbai High Court. Therefore, while dismissing the plea of the petitioner, it was observed that since the matter is pending adjudication before the Central Government Industrial Tribunal, the petitioner would be entitled to benefit of the award as and when it is passed by said Tribunal, in case, it confers benefit on casual labour and temporary employees.

6. Learned counsel for the petitioner contends that subsequently the Central Government Industrial Tribunal, New Delhi, in I.D.No.27 of 1991 passed an award on 18-06-2001 and that pursuant to the said award, since casual employees/temporary employees were directed to be regularized, petitioner is also entitled to the benefit of the said award.

7. The validity of this award passed by the CGIT, New Delhi in I.D.No.27 of 1991 was upheld by the Supreme Court of India in **Tamil Nadu Terminated Full Time Temporary LIC Employees Association Vs. Life Insurance Corporation of India and others**¹. The Supreme Court held that the CGIT, New Delhi, while adjudicating industrial dispute, had a right to override contracts and create rights which are opposed to contractual rights and that the

¹ (2015) 9 S.C.C. 62

award passed by it in relation to absorption of the workmen as permanent workmen in the LIC of India has statutory force. It held that the workmen had been rendering services to the Corporation and their work is perennial nature. It also held that under entry Item 10 of Schedule V of the Act, employing the workmen concerned as temporary, badli and part-time employees against permanent posts doing perennial nature of work and continuing them as such for number of years, is a clear case of “unfair labour practice” as defined under Section 25-T of the Act.

8. Learned counsel for the respondents on the other hand contended that the petitioner should not be granted any relief since the Industrial Tribunal dismissed I.D.No.22 of 1997, and had given valid reasons for its dismissal.

9. However, there is no evidence placed by the respondent to show that 1st respondent has questioned the award insofar as it was held therein that if the CGIT gives relief to casual labour and temporary employees, the petitioner would also be entitled to said relief as and when such award is passed by the CGIT.

10. In the absence of any material placed before this Court in that regard, the award continues to be bind on 1st respondent and once the CGIT in I.D.No.27 of 1991 passed orders on 18-06-2001, directing absorption of workmen like petitioner in permanent posts, the petitioner cannot be denied the said relief.

11. Accordingly, the Writ Petition is allowed and the 1st respondent is directed to absorb the petitioner in sub staff/attender category as admittedly he was appointed on casual basis pending the regular recruitment, in accordance with the judgment of the Supreme Court in **Tamil Nadu Terminated Full Time Temporary LIC Employees Association** (1 supra) upholding the award dt.18-06-2001 in I.D.No.27 of 1991 of the Central Government Industrial Tribunal and in terms of the said award. No costs.

12. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 23-08-2017
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