

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.2693 of 2009

ORDER:

Heard the learned Counsel for the petitioner and the learned Counsel for the first respondent.

The first respondent was working as a workman under the petitioner and he filed M.P.No.26 of 2006 under Section 33(C)(2) of the Industrial Disputes Act claiming balance of unpaid terminal benefits payable by the petitioner herein. The claim of the first respondent was that he worked under the control of the petitioner in various capacities and had put in 28 years of service. The petitioner introduced Voluntary Retirement Scheme and the first respondent opted for the same. He was retired on 31.03.1997. He was retired from service pursuant to a Government Order permitting the retirement of 206 employees, but the petitioner amended the original order of retiring 206 employees and made the orders applicable only to the employees covered under EPF scheme, but not to the GPF holders. Accordingly, it cancelled the applications of 43 GPF holders including the first respondent herein and called them back to service vide proceedings dated 03.05.1997. The said recall order was challenged in W.P.Nos.10948 of 1997 and 11185 of 1997. They sought payment of retirement benefits as per the Voluntary Retirement Scheme. But, the said Writ Petitions were dismissed by the learned single Judge of this Court, and W.A.Nos.159 of 1998 and 855 of 1998 were filed

before the Division Bench. The Division Bench disposed of the Writ Appeals and the relevant portion of the order was taken note by the Labour Court and extracted as under:

“In the above view of the matter, we are of the opinion that the learned single Judge has committed an error in not taking into consideration the conduct of the management of the Federation i.e., announcing the Voluntary Retirement Scheme accepting the offer of the appellants to retire voluntarily, relieving them from duty and later passing recall orders instead of paying them their terminal benefits consequent upon their retirement on the ground that the scheme is meant only to persons covered by EPF and not GPF. Moreover, the service conditions of the Federation do not make any classification as between employees covered by EPF and GPF. When there is no such classification in the service conditions of the Federation as between employees covered by EPF and GPF the impugned notion of the respondents can be termed as discriminatory towards one group of employees who are covered by GPF, and as such, violation of Article 11 of the Constitution of India. When once the Federation accepted the offer of the appellants to retire from service and relieved them from service, it is bound to settle their terminal benefits, and it cannot be now be permitted to take a stand that since the appellants are re-employed their terminal benefits need not be paid. It is to be noted that the appellants rejoined duty under protest as they had to starve. For the reasons given in the preceding paragraphs, we allow the appeals and set aside the order under challenge. Consequently, the Writ Petitions also stand allowed and the recall orders dated 3-5-97, issued by the Federation asking the appellants to join duty, is declared as illegal and contrary to G.O.Ms.No.159, dated 21-3-97 and proceedings Rc.No.123/95/P1 dated 27-3-97. The respondents are directed to settle the terminal benefits of the petitioners-appellants within a period of eight weeks. And delay on the part of the respondents in settling the Terminal benefits, the petitioners-appellants are entitled to interest on the money to be paid to them. No costs.”

The first respondent was shown as appellant No.1 in the Writ Appeal. Some of the employees covered by the Writ Appeals had also filed similar M.Ps and those M.Ps were allowed. In the case of the first respondent also, when he filed M.P, the same was allowed in the following terms:

“In the instant case also petitioner is entitled for the same relief claimed by him. R-2, by not adducing evidence clearly admitted the claim of the petitioner. It is not in dispute that 30% deduction was made from the salaries of the petitioners for 7 months. It is also apparent that the D.A. as shown in Annexure was not taken into consideration by the management while calculating the amount to be paid to the petitioner. Likewise the petitioner is also entitled for leave encashment benefit, which was not extended earlier. With regard to exgratia amount the petitioner is entitled 1½ months pay plus D.A for every year of service. Thus the petitioners’ claim is justified and therefore as per the directions passed in the Writ Appeals, R-1 and R-2 have to settle the payments to the petitioner. Accordingly the M.P is allowed directing the R-1 And R-2 to pay all the amounts with interest.

In the result the petition is allowed for the petitioners claim of Rs.1,65,156/- with interest at 6% from the date of judgment passed in the Writ Appeals dated 4-10-1999 till payment is made.”

I have carefully gone through the order passed by the Additional Industrial Tribunal – cum – Additional Labour Court, Hyderabad, and I do not find any error apparent on the face of the record by reading the order. Learned Counsel for the petitioner also could not bring to the notice of this Court the error committed by the Labour Court. Moreover, similar M.Ps filed by other appellants were already allowed and there cannot be any differential treatment in the case of the first respondent herein. Accordingly, this Court sees no ground to interfere with the impugned order.

The Writ Petition, is accordingly, dismissed. The miscellaneous petitions pending in this Writ Petition, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

28.06.2017

vs