

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 18469 of 2001

ORDER:

This writ petition is filed, under Article 226 of the Constitution of India, by the petitioner, seeking a writ of certiorari to call for the record in I.D.No.34 of 1998 on the file of the Industrial Tribunal-cum-Labour Court, Visakhapatnam, the 3rd respondent herein, and quash the order dated 05.03.2001 passed therein. A consequential direction is also sought to the respondents to reinstate the petitioner into service with back wages and continuity of service in the 1st respondent company.

2. Heard Mr. N. Siva Reddy, learned counsel for the petitioner, and Mr. T.S. Anand, learned counsel for the 1st respondent company.

3. It is the case of the petitioner that he was appointed as a Pump Helper by the 1st respondent which is a public sector undertaking engaged in the construction of steel plant, dams, bridges and various other projects of national importance. The nature of work entrusted to him is to start, repair, and shift the pumps and his work place is in the premises of the 2nd respondent. While he was working, he was illegally terminated on 04.12.1993, without conducting any enquiry. Earlier, when his fellow-workmen wanted to file a writ petition, he joined with them and filed W.P.No.12443 of 1988 for regularization of their services. The said writ petition was disposed of, by an order dated 30.11.1993, with a direction to the workmen to raise an

industrial dispute before the Labour Court. Accordingly, he filed I.D.No.34 of 1998 before the 3rd respondent. While the I.Ds. filed by other workmen were allowed and it was directed that they should be reinstated into service with back wages and continuity of service, the I.D. filed by him was dismissed vide orders dated 05.03.2001. Aggrieved thereby, he filed the present writ petition.

4. Learned counsel for the petitioner contends that the petitioner is similarly placed as the workmen in I.D.No.44 of 1996 and batch of cases on the file of the Industrial Tribunal-cum-Labour Court, Visakhapatnam. The Labour Court had allowed the batch of I.Ds. and directed the 1st respondent company to reinstate the workmen with continuity of service and other benefits, but when it came to the petitioner, it had singled out him and passed a nil award. Challenging the said award, the 1st respondent company filed W.P.No.13240 of 1999 and batch of cases before this Court and this Court had dismissed the batch of writ petitions by a common order dated 13.06.2008 upholding the award passed by the Labour Court. Questioning the same, the 1st respondent company had carried the matter in appeal by filing W.A.No.1184 of 2008 and batch of cases. A Division Bench of this Court, by an order dated 23.09.2008 in W.A.M.P.No.2303 of 2008, stayed the impugned order passed by the learned single Judge as well as the award of the Labour Court so far as payment of back wages is concerned.

5. Learned counsel for the 1st respondent company contends that the petitioner is not an employee of the 1st respondent company and there is no employee and employer relationship between them and the Labour Court has rightly passed a nil award and the petitioner is not entitled for reinstatement into service.

6. I have considered the rival submissions made by the parties. I am of the considered view that the petitioner is similarly situated workman as in the case of the other workmen in I.D.No.44 of 1996 and I see no reason why the petitioner could be singled out. Therefore, the petitioner is also entitled for reinstatement into service on par with the other workmen in I.D.No.44 of 1996. If there is no work in Visakhapatnam, the petitioner shall be accommodated at the place where the 1st respondent company has got work. With these observations, the Writ Petition is disposed of.

Consequently, miscellaneous petitions if any pending in the writ petition shall also stand dismissed. There shall be no order as to costs.

ABHINAND KUMAR SHAVILI, J

27th December, 2017
cbs

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WRIT PETITION No. 18469 of 2001
(disposed of)

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