

* IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND

* HON'BLE SRI JUSTICE M. GANGA RAO

+ W.A.NO.1423 of 2017

% Date: 21-11-2017

Between:

Alli Shankar, S/o. Rajaiah
SCCL Employee, R/o. Q.No.T2-27,
Power House Colony, Godavarikhani,
Ramagundam Mandal,
Karimnagar District - 505209

..... Appellant

And

1. The Singereni Collieries Company Limited; rep. by its Chairman and Managing Director, Singereni Bhawan, Red Hills, Nampally, Khairatabad Post Box No.18, Hyderabad – 500 004.
2. The Chief General Manager (Personnel), The Singereni Collieries Company Limited, Corporate Office, I.R. Wing, Kothagudem, Khammam District – 507101.
3. The Chief General Manager, The Singereni Collieries Company Limited Ramagundam Area-I Godavarikhani, Ramagundam Mandal Karimnagar District – 505209.
4. The Project Officer/Deputy General Manager, The Singereni Collieries Company Limited Medapalli Open Cast Mine, MOCP-IV, N.T.P.C. Medapalli, Ramagundam Mandal, Krimhagar District – 505215.

... Respondents

! Counsel for the appellant

: Mr. Surendra Desai

^ Counsel for Respondents

: Mr. J. Srinivasa Rao S.C.

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? Cases referred

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE M. GANGA RAO

WRIT APPEAL No.1423 of 2017

JUDGMENT: (Per VRS,J)

The appellant, who was employed in the respondent-corporation as a Senior Mining Sardar, was posted as General Mazdoor on surface, on account of medical invalidation. Though the appellant succeeded before the Appellate Medical Board, the decision of the Appellate Medical Board came under challenge at the instance of the respondent-corporation in W.P.No.2345 of 2017 and hence the appellant was not restored to the original post.

2. Therefore, the appellant came up with a writ petition in W.P.No.39514 of 2016 praying for a Writ of Mandamus to restore him to the original post with full pay protection as per the decision of the Appellate Medical Board. Pending the writ petition, the appellant sought for an interim direction to post him forthwith as Mining Sardar Grade-A (Surface).

3. Finding that the grant of interim prayer would tantamount to allowing the writ petition and that the decision of the Appellate Medical Board is the subject matter of a writ petition, the learned Single Judge refused to grant any interim direction as prayed for. Therefore, the appellant has come up with the above appeal.

4. Heard Mr. Surendra Desai, learned Counsel for the appellant and Mr. J. Srinivasa Rao, learned Standing Counsel for the respondent.

5. It may be true that the appellant has a 200% good case on merits and he is bound to succeed. But for the grant of interim relief, which is same as that of the main relief, the existence of a 100% prima

facie case alone may not be sufficient. The Courts will have to test whether after the grant of interim relief, if the main case is dismissed, the situation can be redeemed or not.

6. Though the learned counsel for the petitioner states that in the event of the appellant securing an interim order and thereafter not succeeding in the main writ petition, the excess pay granted to him could be recovered from out of his terminal benefits, we do not think that it is possible. If an interim direction is given, the appellant would have worked in the post of Mining Sardar and would have earned the pay of the post, which can never be recovered later on. Therefore, the learned Judge was right in refusing to grant an interim direction.

7. Hence, the writ appeal is dismissed. However, the writ petition W.P.No.39514 of 2016 shall be taken along with W.P.No.2345 of 2017, at the earliest and the petitioner may take steps for expeditious hearing of both the writ petitions together.

8. As a sequel, miscellaneous petitions pending in this writ appeal, if any, shall stand closed. There shall be no order as to costs.

V. RAMASUBRAMANIAN, J.

M. GANGA RAO, J.

21st November, 2017
Js.

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE M. GANGA RAO

WRIT APPEAL No.1423 of 2017



21st November, 2017

Js.