

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.7595 of 2002

ORDER:

The petitioner, who claims that he worked as casual Kalasi in the 2nd respondent work shop, has filed this writ petition being aggrieved by the Award, dated 18.12.2001, passed in I.D.No.254/1998, on the file of the Industrial Tribunal-cum-Labour Court, Anantapur, whereby, his claim for reinstatement with continuity of service with back wages and other attendant benefits was dismissed.

Brief facts of the case are that the petitioner joined as a casual Kalasi in the 2nd respondent workshop in the year 1986. Thereafter, he was orally terminated from service from 01.01.1993 without any reason and without any notice. None were examined on behalf of the petitioner before the Labour Court and only Ex.W1-Identity Card was marked. The petitioner failed to establish the relationship of employer and employee before the Labour Court. The Labour Court, having considered the evidence before it, had come to the conclusion that the petitioner never worked under the 2nd respondent and there is no jural relationship of employer and employee between the parties. The petitioner was given Ex.W1 Identity Card only for ingress and egress in the workshop, as the petitioner was engaged by the contractor. The Labour Court also found that the 2nd respondent had not violated the provisions of Section 25-F of the Industrial Disputes Act, as the petitioner was engaged through the contractor.

The 2nd respondent Corporation filed counter stating that the petitioner worked under a contractor for attending the works in the

Regional Stores, Cuddapah. The identity card issued to the petitioner is only for security purpose and to gain entry in the prohibited area, and it does not create any right on par with regular employees of the Corporation.

Sri V.Venugopala Rao, learned counsel for the petitioner, would contend that the petitioner was engaged as casual Kalasi in the year 1986 in the 2nd respondent workshop and he was orally terminated from service on 01.01.1993. Before terminating the petitioner from service, the 2nd respondent has not followed the provisions of Section 25-F of the Industrial Disputes Act and no notice was given and no notice pay was paid to the petitioner. He would further contend that termination of the petitioner is illegal and arbitrary. The Labour Court failed to consider and appreciate Ex.W1-Identity Card issued to the petitioner. The petitioner is entitled for reinstatement.

Per contra, the learned counsel, appearing for the 2nd respondent, would contend that the petitioner was engaged through the contractor and he was issued identity card MW 1 only for ingress and egress into the 2nd respondent workshop and it does not create any right on par with regular employees of the Corporation. He would further contend that there is no jural relationship of employer and employee between the petitioner and the 2nd respondent, as the petitioner was not engaged by the 2nd respondent. The petitioner failed to prove that he was engaged by the 2nd respondent and hence the Labour Court has rightly dismissed the claim petition filed under Section 2(A)(2) of the Industrial Disputes Act. The learned counsel would further contend that there is no error of

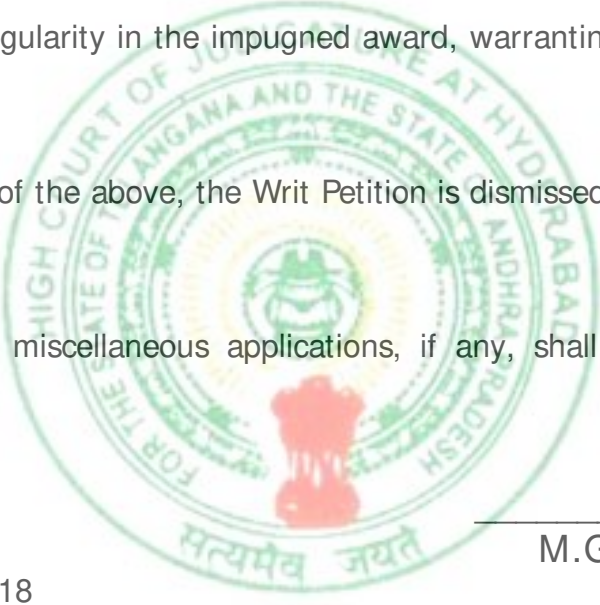
fact and law in the award passed by the Labour Court, which calls for any interference.

In the facts and circumstances of the case, this Court found that the petitioner failed to prove that he was engaged by the 2nd respondent and there exists relationship of employer and employee between the petitioner and the 2nd respondent. Ex.W1, the Identity Card was issued to the petitioner only for ingress and egress into the 2nd respondent workshop. As the petitioner was engaged by the Contractor, the evidence adduced in I.D.No.212/1994 filed by another employees before the Labour Court is not relevant to decide the case on hand. This Court found no illegality or irregularity in the impugned award, warranting interference of this court.

In view of the above, the Writ Petition is dismissed. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed in consequence.

Date: 24.07.2018
Dsr



M.GANGA RAO,J