

THE HONOURABLE SRI JUSTICE SURESH KUMAR KAIT
AND
THE HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.5269 of 2018

ORDER: (Per the Hon'ble Sri Justice Suresh Kumar Kait)

Vide the present petition, the petitioners have challenged the order dated 07.03.2017 passed in O.A.No.948 of 2015 by the Andhra Pradesh Administrative Tribunal, Hyderabad, whereby the application filed by the second respondent under Section 19 of the Administrative Tribunals Act, 1985, was allowed in part.

2. The case of petitioner, second respondent herein, before the Tribunal was that pursuant to the notification issued in the year 1997, he applied and joined as Water Boy-cum-Attender on 01.04.1997 and worked up to 31.03.2001 and that as his services were terminated on 01.04.2001 without following Section 25-F of Industrial Disputes Act, 1947 (for short 'the Act'), he raised a dispute in I.D.No.54 of 2003 before the Labour Court, Guntur, which held that the termination was in violation of Section 25-F of the Act, but however, granted compensation of Rs.15,000/- in lieu of reinstatement. Being aggrieved, the second respondent filed W.P.No.1968 of 2008, which was allowed by this Court on 17.02.2012 directing the petitioners herein to reinstate the second respondent into service in any vacancy available or as and when vacancy arises in a permanent post or till such time, engage him on daily wage basis and held that the second respondent is entitled for the benefit of continuity of service.

3. Being aggrieved, the petitioners preferred W.A.No.576 of 2013, which was disposed of vide order dated 09.12.2014 retaining the direction of reinstatement by deleting the direction for regularization of services of the second respondent, however, gave liberty to the second respondent to institute independent proceedings for regularization of his service. Consequently, the second respondent was reinstated into service on 02.01.2013 and is working since then.

4. It is not in dispute that there are clear vacancies of Class-IV posts in the office of third and fourth respondents and other Mandal Praja Parishads under the control of the third respondent. The duties discharged by the second respondent are equal to the duties of Class IV employees, such as Attender, but he is only paid nominal wages on daily wage basis. Though the regular Attenders and other Class IV employees were extended pay scales and other benefits such as leaves etc., the second respondent is deprived of wages on weekly offs and other public holidays. Therefore, the second respondent challenged before the Tribunal on the ground that he is entitled to pay scales of Attender on the principle of equal pay for equal work.

5. Learned counsel appearing on behalf of the petitioners submits that the second respondent was working as Water Boy on daily wage basis and he was not appointed by any competent authority and that there is no post of Water Boy in the petitioners'

department. Despite, the Tribunal directed the petitioners herein to pay minimum time scale to the second respondent in his post.

6. It is not in dispute that the second respondent was working as NMR on daily wage basis and has not completed 5 years of service as on 25.11.1993 as stipulated in G.O.Ms.No.212 dated 22.04.1994. Therefore, the Tribunal, while relying upon the judgment of the Supreme Court in Manjula Bhashini's case, declared that the applicants, who fulfill the conditions laid down in G.O.Ms.No.212 dated 22.04.1994, are entitled for regularization of their services and that as the second respondent has not fulfilled the condition stipulated in the said G.O., the Tribunal declared that he is not entitled for regularization of service.

7. As far as the issue regarding minimum time scale is concerned, the Tribunal has relied upon the judgment rendered by the Supreme Court in Civil Appeal No.213 of 2013 dated 26.10.2016 and held that the second respondent is entitled to minimum time scale and consequently, directed the petitioners to pay minimum time scale to the second respondent in his post.

8. It is also not in dispute that the post of water boy is Class IV post and there are other Class IV posts like Attenders in the petitioners' department. If that is the position, we are of the considered opinion that the second respondent is entitled to minimum time scale as rightly granted by the Tribunal.

9. Finding no illegality or perversity in the order of the Tribunal dated 07.03.2017 passed in O.A.No.948 of 2015, we hereby confirmed the same.

10. Finding no merit in the present petition, the Writ Petition is accordingly dismissed. No order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

SURESH KUMAR KAIT, J

19th February, 2018

sj

ABHINAND KUMAR SHAVILI, J

