

HON'BLE SRI JUSTICE M.GANGA RAO

W.P.No.5549 OF 2001

ORDER

Being aggrieved by the Award dated 6.6.2000 passed in I.D.No.202 of 1996 by the Labour Court, Guntur, whereunder the Labour Court dismissed the ID holding that the petitioner is not the workman within the meaning of Section 2 (S) of the Industrial Disputes Act, the present writ petition is filed.

The brief facts of the case are that the petitioner joined as Assistant Cane Development Officer (Trainee) in the respondent-company. Thereafter, he was posted as Assistant Cane Development Officer on probation from 1982. While discharging his duties as such, his services were terminated with effect from 15.7.1996 *vide* letter dated 2.7.96. Questioning the said termination, he filed ID under Section 2-A(2) of the Act, before the Labour Court, Guntur, alleging that the respondent company has not followed the procedure prescribed under the provisions of the Act, and no notice of enquiry was preceded before termination and hence, the termination is illegal, arbitrary and contrary to the principles of natural justice. The Labour Court, without going into the merits of the case, framed the issue as to whether the applicant is workman as defined under Section 2 (S) of the Act along with other issues. On elaborate consideration of the

evidence on record and by placing reliance on the judgments of this Court as well as Apex Court, the Labour Court held that the petitioner is not the workman under Section 2 (S) of the Act and as such, he is not entitled to any relief.

Learned counsel appearing for the petitioner would contend that the Labour Court grossly erred in coming to the conclusion that the petitioner is not the workman within the meaning of Section 2(S) of the Act. Learned counsel further contends that the petitioner was appointed as an Assistant Cane Development Officer (Trainee), and he is discharging technical and clerical duties and as such, he is the workman as defined under Section 2(S) of the Act. Learned counsel further contends that the Labour Court has to see the principal functions and duties of the petitioner, but not the nomenclature given as Assistant Cane Development Officer and subsequently, he was placed in the cadre of managerial staff in the year 1990, the same was accepted and he was paid Rs.1600/- per month and his services were covered as per 3 (V) of the Certified Standing Orders of the company. On mere change of designation, it cannot be said that the petitioner does not come within the meaning of workman as defined under Section 2 (S) of the Act.

Learned counsel further contends that as the petitioner is discharging skilled and clerical duties, he is entitled to be treated as workman under Section 2 (S) of the Act, and the Labour Court ought not to have passed the award holding that the petitioner is not the workman within the meaning of section 2(S) of the Act and on merits, the Labour Court ought to have decided as to whether the termination of the petitioner/applicant is valid or not and hence, the writ petition deserves to be allowed. In support of his contention, learned counsel placed reliance on the judgment reported in *Guest Keen Williams Limited vs. Assistant Labour Commissioner*¹, *Arkal Govind Raj Rao vs. Ciba Geicy of India Ltd, Bombay*² and *S.K.Verma vs. Mahesh Chandra*³.

Ms. B.Uma Devi, learned counsel appearing for the 2nd respondent would contend that the Labour Court having considered the evidence available on record and nature of the duties held by the workman, had rightly come to the conclusion that the petitioner is not the workman within the meaning of Section 2 (S) of the Act and that there is no illegality or perversity in holding that the petitioner is not the workman. Learned counsel further contends that the labour Court on thorough consideration of the evidence and

¹ 1986 Law Suit (Cal) 175

² 1985 Law Suit (SC) 174

³ 1983 Law Suit (SC) 240

decisions placed before it decided the issue that the petitioner is not the workman. The Labour Court considered the issue whether the petitioner-applicant has performed any of the duties mentioned in the tests laid down by the Supreme Court and other High Courts. The Apex Court has held that what is the dominant purpose of employment has to be taken into consideration with regard to the nature of employment. The Labour Court found that the petitioner-applicant was appointed as Cane Development Officer and was placed in the Managerial Grade-II and he is enjoying the benefits of the said category of employees and to the said category of employees, the standing orders of company are not applicable and their service conditions are regulated by Staff Regulations of the Company. The petitioner-applicant, who is the Cane Development Officer, is issuing permits to the ryots for cutting sugar cane and sending them to the mill, after verifying the records. They are also sending proposals for granting subsidy to the ryots to the head office. Thereby, at the zonal level, the Cane Development Officer, is taking decision as to the sanction of subsidies to a ryot and when the cane has to be cut and sent to the mill and the said decisions taken by the Cane Development Officer at the zonal level are binding the head office. As per the evidence of MWs.1 and 2,

the petitioner has the power to supervise the work of the subordinates being a Cane Development Officer and as per Ex.M.14, the plantation sheet, the petitioner has to verify the statements prepared by the field staff and countersign them and he has to verify the ratoone sheets prepared by the field staff and attest them under Ex.M.15. After discussing all the decisions as laid down by the Supreme Court, the Labour Court came to the conclusion that the petitioner was employed to manage the zonal office and supervise the work of the employees working in the zone and to grant permits for cutting sugar cane and recommend for granting subsidy to ryots and to recommend leave of the employees working in the zone and also recommend disciplinary action to be taken against employees and used to check the work done by the employees working under him. The Cane Development Officer maintains the attendance registers of the staff working under him and sends confidential reports against them. Learned counsel further contends that the findings arrived at by the Labour Court needs no interference by this Court. In support of her contention, learned counsel placed reliance on the judgment rendered by this Court in *Paruchuri Siva Kumar vs. Presiding Officer, Labour Court, Guntur* (W.P.No.5837 of 2001).

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that the Labour Court, on thorough examination of the evidence, both oral and documentary, rightly came to the conclusion that the petitioner is not the workman under Section 2(S) of the Act by observing as under:

“The applicant counsel contends that they are handling log-books and as such it amounts to clerical duties. The log-books are to be maintained by the person who is using the vehicle and as such it cannot be said to be a clerical work. As held by the Supreme Court in the decisions referred above, the main nature of work that is being performed by the employee has to be taken into consideration but not subsidiary work done by him. The nature of works performed by the applicant clearly establishes that their main job as Cane Development Officer is Managerial, Administrative and Supervisory and if any clerical or technical work is done by them during the course of their employment, it is only subsidiary to the main job of managerial duties. As such, the applicants are performing the managerial administrative and supervisory functions as Cane Development Officers. As per the decisions referred to above by the respondent counsel, the applicants are not the workmen as defined under Section 2(S) of I.D.Act. Accordingly the point is held.”

The findings as arrived at by the Labour Court need no interference by this Court.

Accordingly, the Writ Petition is dismissed. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE M.GANGA RAO

20th June, 2018
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