

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 26670 of 2005

O R D E R:

The present writ petition is filed seeking to issue a writ of *Certiorari* calling for records pertaining to and connected with Award dated 30.05.2003, passed in ID No.214 of 1999 on the file of respondent No.3 and quash the same as illegal and arbitrary and consequently, direct respondent No.1 to reinstate the petitioner with all attendant benefits.

2. Respondent No.1 is a research centre and respondent No.2 is a security agency contractor.

3. The petitioner was appointed as Security Guard on 01.03.1994 by respondent No.2 to work in respondent No.1 organisation. Since then, he worked continuously without any break till 31.07.1996, from which date, his services were terminated orally. Though the petitioner was appointed as Security Guard, during his service, he attended various works such as watch and ward, sweeping and cleaning the premises. In this regard, petitioner made several representations and approached the respondents, but in futile. Questioning the

inaction of the respondents, the petitioner along with two others filed a writ petition in WP No.20895 of 1998 and this court by order dated 26.04.1999 directed the respondents to consider the feasibility of abolition of contract labour regarding watching of building, sweeping and transport etc., and consequentially directed to absorb the writ petitioner by giving preference to them. However, the petitioner filed ID No.214 of 1999 and the same was dismissed by respondent No.3 holding that the petitioner is not entitled for reinstatement in respondent No.1-management and also rejected prayer of other consequential benefits. Aggrieved by the same, the present writ petition is filed by the petitioner.

4. Heard Sri V.Jitender Rao, learned counsel for petitioner and Sri G.Ramachandra Rao, learned Standing counsel for respondent No.1.

5. Learned counsel for petitioner submits that respondent No.3 failed to see that though the petitioner was engaged through respondent No.2, the real employer is respondent No.1 and that considering the long service rendered by him, the

respondents ought to have considered the case of petitioner for his absorption.

6. On the other hand, the learned Standing Counsel appearing for respondent No.1 would submit that petitioner was appointed by respondent No.2 to work in respondent No.1-organisation and hence, there is no employee and employer relationship between them and that when the proceedings are pending before the Assistant Commissioner of Labour, respondent No.3 has no jurisdiction to entertain and adjudicate the ID. Further, subsequent to the orders passed by this court in WP No.20895 of 1998, respondent No.1 did not appoint security guards on its roll, as such, the question of considering the case of petitioner as security guard does not arise at all. Hence, the writ petition is liable to be dismissed.

7. On perusal of the record, it is seen that respondent No.1 had appeared before the Conciliation Officer, where an industrial dispute was raised in respect of engagement of security Guards, and gave an undertaking that six security guards, whose services were terminated, would be engaged in future vacancies. Contrary

to the said undertaking, respondent No.1 engaged the security guards excluding the case of the petitioner.

8. In view of the above discussions, this court is of the considered view that the petitioner impleaded respondent No.2 even in the ID filed before respondent No.3, which goes to show that the petitioner was engaged by respondent No.2, and placed at the disposal of respondent No.1. There is an intermediary agency in the form of respondent No.2. Hence, no illegality or irregularity has been pointed out in the order impugned. Unless and until grave irregularity is pointed out, this court cannot interfere with the orders passed by respondent No.3. There are no merits in the writ petition and the same is liable to be dismissed.

9. In the result, the writ petition is dismissed.

10. Miscellaneous Petitions, if any, pending in this writ Petition shall stand closed.

ABHINAND KUMAR SHAVILI, J

26th September, 2018
Mjl/*