THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION NO.30338 OF 2016

ORDER: (per SK,J)

The petitioner is the unsuccessful applicant in O.A.No.1066 of 2012 on the file of the Central Administrative Tribunal, Hyderabad Bench, Hyderabad, which was dismissed by order dated 04.06.2015. Challenge in the said O.A. was to the termination of the petitioner's services as a Casual Worker in the Ship Building Centre at Visakhapatnam. The petitioner was admittedly appointed as Casual Labour under orders of the Admiral Superintendent, Naval Dock Yard, Visakhapatnam, and continued as such till 13.07.2000. On that day, his services were terminated. In the first instance, the petitioner raised an industrial dispute under Section 2-A(2) of the Industrial Disputes Act, 1947 (*for brevity*, 'the Act of 1947'), before the Central Government Industrial Tribunal-cum-Labour Court at Hyderabad in I.D.No.127 of 2004. However, the respondents in the said O.A., the respondents before this Court, brought it to the notice of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad, that the Ship Building Centre, Visakhapatnam, being a project of the Government of India, was exempted from the provisions of the Act of 1947 *vide* Gazette of India Notification dated 07.01.2003. Taking note of this exemption, the ID was returned to the petitioner for presentation before the appropriate forum. Thereupon, the petitioner approached the Central Administrative Tribunal by way of O.A.No.1066 of 2012.

Perusal of the order passed by the Central Administrative Tribunal dismissing the O.A. demonstrates that the only issue raised by the petitioner was that he was issued a Commendation Certificate on

13.07.2000 by the Commander of the Ship Building Centre, Visakhapatnam, wherein it was stated that he worked as a Casual Worker since three years and his sincerity towards scheduled jobs completion in a given time was appreciable. The certificate also confirmed that his character and conduct were good. However, the Tribunal opined that the said certificate was unworthy of credibility and in any event, it did not assist the case of the petitioner as it was contended by the respondents that the Ship Building Centre did not employ any unskilled labour and that the petitioner's name was not borne out on the books of the Ship Building Centre.

Sri P.Ramchander Rao, learned counsel representing Dr.P.B.Vijay Kumar, learned counsel for the petitioner, would contend that the petitioner worked for more than 240 days in a year and therefore, the action of the authorities of the Ship Building Centre in dismissing him from service without following the mandate of Section 25-F of the Act of 1947 cannot be countenanced. However, as already pointed out, the petitioner suffered an order before the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad, to the effect that the Ship Building Centre was exempted from the provisions of the Act of 1947 and did not choose to challenge either the exemption notification or the order holding to that effect. Therefore, the petitioner cannot again raise any issue under the aforestated enactment. That apart, except for the certificate dated 13.07.2000, there is no material in proof of the petitioner having been employed in the Ship Building Centre.

Sri K.Aravind Kumar, learned counsel for the respondents, would further point out that the certificate dated 13.07.2000 was denied by the respondents and therefore, the same cannot be taken to be genuine.

This disputed question of fact cannot be decided by this Court in exercise of writ jurisdiction. In any event, it is an admitted fact that the petitioner, being Casual Labour, was thrown out of employment as long back as in July, 2000, even if his claim is accepted. That being so, he would not be entitled to seek appointment on the strength of his claim without due procedure being adhered to.

The writ petition therefore fails and is accordingly dismissed.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

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SANJAY KUMAR,J

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M.GANGA RAO,J

Date:13.11.2018

GJ