

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.9826 OF 2005

ORDER

This writ petition is filed seeking to issue a Writ of Certiorari calling for the records relating to and connected with the Award dated 15.07.2000 passed in I.D.No.13 of 1999 by the Industrial Tribunal-II, Hyderabad, and to quash or set aside the same by holding it as arbitrary and illegal and sought for a consequential direction to the respondents to absorb the workmen with all consequential benefits.

Heard Sri A.K.Jaya Prakash Rao, learned counsel appearing for the petitioners and Sri T.Sudhakar Reddy, learned Standing Counsel appearing for respondents 2 and 3 and learned Government Pleader for Labour appearing for respondent No.1.

Initially, the petitioners were engaged in 3rd respondent-Quthubullapur Municipality during the year 1988 and they continuously worked up to 1996. Thereafter, the said Municipality was taken over by the 2nd respondent with effect from 01.01.1997.

The grievance of the petitioners is that respondents 2 and 3 have not absorbed them into service and they have

disengaged their services. Challenging the same, the petitioners have filed W.P.No.7842 of 1997 and the said writ petition was dismissed *vide* order dated 19.8.1998. Questioning the same, the petitioners filed W.A.No.1392 of 1998. While dismissing the same on 8.9.1998, the Division Bench observed that dismissal of the writ appeal would not prevent the petitioners to move appropriate forum for the relief, if they are entitled to. Thereafter, the petitioners have raised a dispute before the Conciliation Officer. When conciliation talks failed, the Conciliation Officer has submitted a failure report to the appropriate Government. The appropriate Government has referred the dispute to the Labour Court and the same was numbered as I.D.No.13 of 1999. The Labour Court *vide* Award dated 15th July, 2000 had rejected the claim of the petitioners for their absorption. Challenging the same, the present writ petition is filed.

Learned counsel appearing for the petitioners contends that the Labour Court erred in not allowing the ID preferred by the petitioners and mechanically dismissed the same without appreciating any of the contentions raised by the petitioners; that the Labour Court failed to appreciate that the petitioners have worked in the water works department of the Quthubullapur Municipality; that when respondents 2 and 3

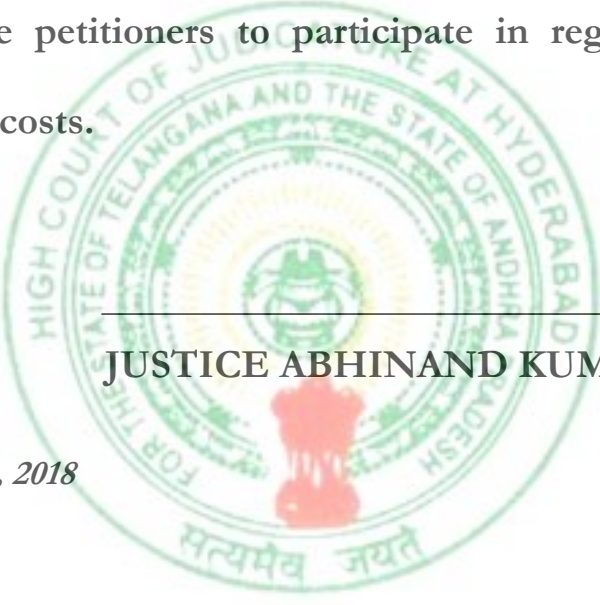
have taken over the task of supplying water in Quthubullapur Mandal with effect from 01.01.97, in all fairness, respondents 2 and 3 ought to have absorbed the petitioners into their services with all consequential benefits; and that appropriate orders be passed directing respondents 2 and 3 to absorb the petitioners as they have been discharging the duties of Pump Operators and other miscellaneous works.

Learned Standing Counsel appearing for respondents 2 and 3 contends that the petitioners never worked with Quthubullapur Municipality, as they were engaged through a contractor; that W.P.No.7842 of 1997 filed by the petitioners was dismissed, which was also confirmed in W.A.No.1392 of 1998; that as there was no master and servant relationship between the petitioners and respondents 2 and 3, the question of absorbing the petitioners does not arise; and that there are no merits in the writ petition.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that the Labour Court has rightly dismissed the I.D preferred by the petitioners with an observation that there is no master and servant relationship between the petitioners and respondents 2 and 3 as they were engaged through a contractor. The Labour Court further observed that the

petitioners cannot be absorbed without undergoing regular selection process. Hence, this Court is not inclined to interfere with the Award passed by the Labour Court. There are no merits in the writ petition and the same is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. However, this order will not preclude the petitioners from approaching the respondents in view of the liberty given by the Labour Court to the petitioners to participate in regular selection process. No costs.



JUSTICE ABHINAND KUMAR SHAVILI

21st December, 2018

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