

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.18210 OF 2001

ORDER:

The petitioner society filed this writ petition being aggrieved by the common award dated 01.04.2000 passed by the 1st respondent/Industrial Tribunal-cum-Labour Court in I.D.Nos.39 of 1998 and 40 of 1998, whereby the society was directed to reinstate the workmen with backwages and continuity of service.

2. The brief facts of the case are that the workman in I.D.No.39 of 1998 was joined in the petitioner society in the year 1994 as a Carriager at the Appalammapalem Sub-centre and was paid Rs.500/- per month. Whereas, the workman in I.D.No.40 of 1998 joined in the petitioner society as a Carriager at Appalammapalem Sub-centre and later promoted as a Paid Secretary and was drawing Rs.650/- per month. Both the workmen were demanded hike in the wages and thereafter the petitioner management has not paid the salary from March, 1996 to July, 1997. Later, they were removed from service by passing a resolution dated 20.08.1997. After giving notice to the petitioner management, both the workmen were raised industrial dispute before the Industrial Tribunal-cum-Labour Court, Visakhapatnam in I.D.No.39 of 1998 and 40 of 1998 respectively. The Labour Court, having considered the evidence of WW1 and MWs 1 to 3 coupled with

documentary evidence i.e. Exs.W1 to W3 and Exs.M1 to M.14, came to a conclusion that the workmen were removed from service contrary to the provisions of Section 25F of the Industrial Disputes Act, 1947 (for short 'the Act') and passed the common award directing the petitioner to reinstate both the workmen with back wages and continuity of service in the petitioner society. Being aggrieved by the same, the present writ petition came to be filed.

3. This Court, while admitting the writ petition on 31.08.2001, granted interim suspension in WPMP No.22824 of 2001, subject to condition of compliance of provisions under Section 17-B of the Act and also depositing half of the back wages awarded by the Labour Court within a period of eight weeks. On such deposit, it is also ordered that the respondent-workmen are entitled to withdraw the same without furnishing any security. It appears that the said condition has not been complied with. The respondents filed WVMP No.3783 of 2004 to vacate the interim order dated 31.08.2001 passed in WPMP No.22824 of 2001. However, for non-compliance of the interim order dated 31.08.2001, the interim suspension was vacated on 15.02.005, leaving it open for the contesting respondents-workmen to execute the warrant. But, the Labour Court has not entertained the E.P. on the ground that the writ petition is pending before this Court.

4. Sri P.B.Vijay Kumar, learned counsel appearing for the petitioner society, would contend that the workmen/respondents 2 and 3 worked at Appalammapalem Sub-Centre, one hour in the morning and one hour in the evening. They were engaged on a casual basis and their avocation was to collect the milk from the farmers. They were indulged in diverting the milk procured for the petitioner society to a private dairy and finally left the services of the petitioner society in July, 1997. Having waited for a month, their services were terminated on 20.08.1997. Both the workmen were raised a dispute under Section 2-A(2) of the Act before the 1st respondent. The 1st respondent-Labour Court, having conducted the enquiry, held that the workmen were illegally removed from the services without following the provisions of Section 25F of the Act, which is contrary to the evidence available on record. He further contended that the award of the Labour Court is vitiated for non-consideration of the documents produced by the petitioner society and the award is perverse as the Labour Court has not given any cogent and convincing reasons in passing the award. The Labour Court failed to see the involvement of the respondents-workmen in diverting the milk to the private dairy and thereby the petitioner society suffered losses. The Labour Court failed to appreciate the contentions urged by the petitioner in its proper perspective and came to a wrong conclusion that the respondents/workmen worked with the

petitioner society and they were removed on 20.08.1997 without following Section 25F of the Act, but the workmen themselves had left the organization. It is finally contended that the finding of the Labour Court is perverse and is liable to be set aside.

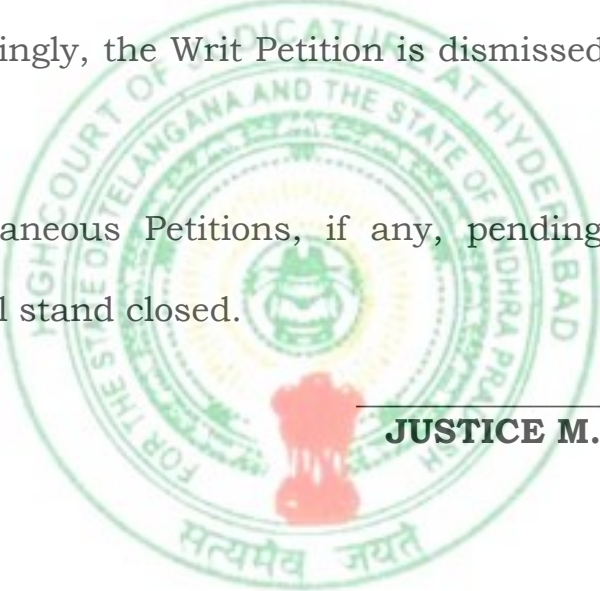
5. Per contra, Sri V.S.R.Anjaneyulu appearing for the respondents-workmen would contend that the Labour Court found that the workmen worked with the petitioner society. The workmen in I.D.No.39 of 1998 joined in the year 1994 and he was entrusted the duty of collecting the milk from the villagers, making entries in the book after testing the milk, to seal the milk cans and to take the two cans to the Madivada Centre twice per day i.e. morning and evening. The workmen in I.D.No.40 of 1998 worked as a Paid Secretary and was paid Rs.600/- per month. Both the workmen were removed from service by passing the resolution contrary to Section 25F of the Act. The Labour Court, having rightly come to a conclusion basing on the evidence available on record, directed to reinstate both the workmen into service with back wages and continuity of service. He finally argued that there is no illegality or irregularity in passing such an award by the Labour Court and the writ petition is liable to be dismissed.

6. In the facts and circumstances of the case and in considered view of this Court, it is found that the workmen were worked in the petitioner society and they were removed

from service by passing the resolution dated 20.08.1997 contrary to the provisions of Section 25F of the Act. The contentions of the learned counsel for the petitioner are untenable in view of the finding of the Labour Court that the workmen were engaged, paid salaries and removed illegally. Hence, this Court finds that there is no error of fact and law in passing of the common award dated 01.04.2000 by the Labour Court in I.D.No.39 of 1998 and I.D.No.40 of 1998, warranting interference of this Court.

7. Accordingly, the Writ Petition is dismissed. No order as to costs.

8. Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.



JUSTICE M.GANGA RAO

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