

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.12755 of 2005

ORDER:

This Writ Petition is filed seeking the following relief:

“to issue a writ, order or direction more particularly on in the nature of Mandamus setting aside the impugned Memo.No.AB/EC.2./375-M, dated 19.5.2005 terminating the services of the petitioner issued by the second respondent, as illegal, arbitrary, vindictive, violation of articles 14,16 and 21 of the Constitution of India and pass such other necessary order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

Heard Si M.Pichaiah, learned counsel for the petitioner and the learned Assistant Government Pleader for Irrigation and Command Area.

It has been contended by the learned counsel for the petitioner that the petitioner was initially appointed as workman on NMR basis under the respondents on 1.8.1984. While the petitioner was discharging his duties, his services were retrenched violating 25-F of the Industrial Disputes Act. Challenging the illegal retrenchment, the petitioner had filed I.D.No.254 of 1996 before the Labour Court, Guntur. The Labour court vide orders dated 15.9.2001 declared that the petitioner is entitled for reinstatement with continuity of service without back wages. When the respondents have not complied with the said orders passed by the Labour court, the petitioner filed EP.No.6 of 2003. Only when orders of arrest were issued against the respondents, the respondents have reinstated

the petitioner into service on 29.3.2005. It has been further contended by the learned counsel for the petitioner that immediately within one month, the respondents issued notice on 21.4.2005 under clause-C of Section 25-F of the Industrial Disputes Act wherein the respondents have decided to retrench the petitioner once again with effect from 21.5.2005 on the ground that there is no sufficient work load to the employees of the said division in all categories. Learned counsel for the petitioner further contended that the requirements of Section 25-F are (i) employer must issue one month's notice or in lieu of notice one month's pay; (ii) payment of retrenchment compensation at the rate of 15 days average pay for each completed year of continuous service and (iii) the employer should intimate to the Government about the intention of retrenchment of its employees. It has been further contended by the learned counsel for the petitioner that only the first requirement was followed by the respondents and no retrenchment compensation was paid to the petitioner and the respondents have also not intimated to the Government about the retrenchment of the petitioner. Learned counsel for the petitioner also contended that the respondents have not followed Section 25-F and many of his juniors are being continued in service.

Learned Assistant Government Pleader appearing for the respondents had contended that as per Section 25-F, the respondents have issued one month's notice to the petitioner and they have complied the requirement of Section 25-F and no illegality has been committed by the respondents in retrenching the petitioner. Learned Assistant Government Pleader further

contended that, admittedly, there was no work load with the respondents to utilize the services of the petitioner. Learned Assistant Government Pleader also contended that no retrenchment compensation is paid to the petitioner and if the Court directs the respondents, the respondents are ready to comply with the orders and pay retrenchment compensation to the petitioner.

Considering the submissions made by the parties, this Court is of the view that the petitioner was retrenched without following the procedure as contemplated under Section 25-F of the Industrial Disputes Act. The defect of not applying Section 25-F of the I.D. Act cannot be cured at a subsequent date. As the respondents have retrenched the petitioner without applying the provisions of Section 25-F, the retrenchment of the petitioner is declared as invalid and the petitioner is deemed to be in service from the date of retrenchment with all consequential benefits.

With these observations, the Writ Petition is allowed. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

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ABHINAND KUMAR SHAVIL, J

Date: 05/ 10/ 2018

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