

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.11257 OF 2002

ORDER:

Petitioner filed this Writ Petition being aggrieved by the Award dated 28.11.2000 passed in I.D.No.126 of 1996 by the Industrial Tribunal-cum-Labour Court whereby the Labour Court dismissed the claim of the petitioner for reinstatement.

Brief facts of the case are that the petitioner was engaged as a field worker in the District Malaria Department in August, 1988 on daily wage basis. From June to October, Field Workers were engaged on daily wage basis. During November to May, the Field Workers were engaged occasionally. Petitioner worked up to November, 1993 with occasional break. After, 1994, Contract System was introduced. Since he was not engaged subsequently, petitioner raised I.D.No.126 of 1996 under Section 2-A (2) of the Industrial Disputes Act, 1947 (for short 'I.D.Act') before the third respondent. The Labour Court having considered the oral evidence of WW.1 and documentary evidence of Exs.W.1 to W.3 came to the conclusion that the petitioner was engaged on daily wage basis, he was engaged during the period from August, 1996 to September, 1994, occasionally on daily wage basis when the works were available in the Department. The Labour Court found that the petitioner had not worked for 240 days continuously within 12 calendar months preceding the date of his disengagement/termination and the petitioner failed to produce evidence to show that he was removed from service and thereby dismissed the claim petition. Questioning the same, the present writ petition came to be filed.

Sri K.Vijaya Narsimha Rao, learned counsel for the petitioner, would contend that the petitioner was engaged as field worker in the District Malaria Department from August, 1993 to September, 1994, in spraying programme and he was paid on daily wage basis. After 1994, the Department has introduced Contract System and the petitioner was orally disengaged. Petitioner worked 240 days in 12 months prior to removal of the petitioner and the respondent-Department failed to issue notice under the provisions of Section 25F of the I.D.Act. Hence, disengagement of the petitioner is arbitrary and illegal. The Labour Court erred in holding that the petitioner failed to prove that he worked for 240 days immediately preceding the date of his termination. Petitioner was engaged on daily wage basis. He would further contend that the Labour Court has not properly appreciated the evidence adduced before the Court and grossly erred in holding that the petitioner is not entitled for reinstatement into service. Hence, the order of the Labour Court is liable to be set aside.

Respondents 1 and 2 filed counter affidavit stating that the petitioner's services were utilized at Karimnagar and surrounding villages on daily wage basis, as per Regulations of the Department, and he was paid his wages. He was engaged in the Spray programme of the District Malaria Department. Petitioner never worked for 240 days in the Department. Hence, there is no illegality or irregularity in the award passed by the Labour Court.

In the facts and circumstances of the case and having considered the rival contentions, this Court finds that the petitioner was engaged as a worker on daily wage basis during the period from August, 1993 to September, 1994. Petitioner failed to

prove that he worked for 240 days continuously within the 12 calendar months immediately preceding the date of termination as concluded by the Labour Court. Hence, this Court finds that there is no error of law and error of fact in the impugned award of the Labour Court, which calls interference of this Court.

Hence, the Writ Petition is dismissed.

Miscellaneous petitions pending in this petition, if any, shall stand closed.

24th July, 2018
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(M.GANGA RAO, J)

