

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.11163 OF 2002

ORDER:

The petitioner, who claims to be working as a casual labour worker in the respondent-Andhra Pradesh State Road Transport Corporation (for short 'Corporation'), preferred this writ petition being aggrieved by the award dated 10.10.2000 passed in I.D.No.160 of 1996 by the Chairman, Industrial Tribunal-cum-Labour Court, Godavarikhani, whereby the Labour Court partly allowed the claim of the petitioner directing the respondent to pay Rs.9,600/- towards twelve months' pay to the petitioner with costs of Rs.500/-.

Petitioner claims that he worked as casual labour-cum-NMR in the respondent-Corporation in the construction work of Manthini Depot from 21.04.1994 to 30.04.1995 and he was paid a consolidated pay of Rs.800/- per month. Thereafter, he was orally stopped from attending duties from 01.05.1995. Being aggrieved by such oral termination, petitioner approached the Labour Court raising I.D.No.160/1996 claiming reinstatement into service with back wages. The 4th respondent-Labour Court having considered the oral evidence of WW.1 and MW.1 and the documentary evidence of Ex.W.1 while rejecting the claim of the petitioner for reinstatement into service, partly allowed the I.D., directing the respondents to pay Rs.9600/- towards 12 months' pay to the petitioner along with costs of Rs.500/-, holding that the petitioner was engaged as a casual Man Mazdoor against the circular orders of the department and without concurrence from the superior officers and therefore the very appointment of the petitioner was

bad and there is no provision for appointing the petitioner as casual Man Mazdoor since there are no civil works according to the evidence of MW.1. Aggrieved by the same, the present writ petition came to be filed.

Sri K.Narasimha Rao, learned counsel for the petitioner, would contend that the petitioner was engaged as a casual labour-cum-NMR in construction work of Manthini Depot from 21.04.1994 to 30.04.1995 and he was paid Rs.800/- per month. On 01.05.1995 he was orally termination and the termination is in violation of the provisions of the Section 25 of the I.D. Act and no notice pay was paid to the petitioner. The Labour Court grossly erred in holding that the petitioner was engaged with the contractor and there was no provision of appointment as a casual labour since there are no civil works according to MW.1. He would further contend that the Labour Court erred in not reinstating the petitioner with continuity of service.

Per contra, Sri A.Ravi Babu, learned counsel for the respondents, while reiterating the averments of the counter and conclusions of the Labour Court, would contend that there is no relationship of employer and employee between the petitioner and respondents and the petitioner was engaged through contractor and the petitioner failed to produce documentary in support of his contention that he was engaged by the respondent-Corporation. The Labour Court rightly rejected the claim of the petitioner for reinstatement and there is no error of law or error of fact in the award of the Labour Court, which warrants interference of this Court and thus seeks dismissal of the writ petition.

In the facts and circumstances of the case and having considered the rival contentions, this Court is of the considered view that the petitioner was engaged through contractor as a casual labour in the construction work of Manthini Depot from 21.04.1994 to 30.04.1995, he was paid consolidated pay of Rs.800/- per month, the Labour Court on considering the evidence of WW.1 and MW.1 and Ex.W.1 found that there is no provision for appointing the petitioner as casual Man Mazdoor since there are no civil works according to M.W.1, the petitioner was engaged without the concurrence from the superior officers and against the Circular orders of the department, the very appointment of the petitioner was bad. The Labour Court further held that though it is presumed that the petitioner worked for more than 240 days, since very appointment of the petitioner is bad, he cannot be reinstated into service. Petitioner, failed to prove that there is employee and employer relationship between the petitioner and respondents. Hence, this Court finds that there is no error of fact or error of law warranting interference of this Court and the award is in accordance with law.

Hence, the Writ Petition is dismissed.

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

(M.GANGA RAO, J)

24th July, 2018
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