

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

Writ Petition No.22862 of 2002

ORDER:

This writ petition is filed seeking a writ of certiorari to call for the records relating to the award passed by the Labour Court in I.D.No.143 of 1997 dated 07.11.2001 and to set aside the same holding it as illegal and arbitrary. A consequential direction is also sought to reinstate the petitioner into service with continuity of service and with full backwages from the date of termination.

Heard Sri P.Raghavender Reddy, learned counsel for the petitioner and learned Government Pleader for Labour.

It has been contended by the petitioner that he was appointed as a Watchman on 01.10.1988 and was continued upto 27.03.1997 on daily wage basis but the respondents without following Section 25-F of the Industrial Disputes Act, 1947 (for short "the Act") have retrenched him. Challenging the same, the petitioner filed I.D.No.143 of 1997 before the Labour Court, Anantapur under Section 2-A(2) of the Act. The grievance of the petitioner is that the Labour Court, vide orders dated 07.11.2001, had erroneously dismissed the I.A without appreciating any contentions raised by him.

It is contended by the learned counsel for the petitioner that the Labour Court had denied the relief only on the ground that the Andhra Pradesh (Regulation of Appointments to Public Services and Rationalisation of Staff Pattern and Pay Structures) Act, 1994 (for short "Act 2 of 1994") was promulgated and, in fact, in view of Act 2 of 1994 no relief can be granted to the petitioner. Learned counsel has relied upon a judgment rendered by a Division Bench of this Court in ***Municipal Comissioner vs. Smt. D.Susheela***¹ wherein it was held that Act 2 of 1994 has no application for the cases arising under the Industrial Disputes Act. It is further contended that the petitioner is entitled to

¹ 1995(3) ALD 150 (D.B.)

reinstatement, as the respondents have violated the provisions of the Act viz, Section 25-F and the writ petition be allowed and the respondents be directed to reinstate the petitioner into service with all consequential benefits.

Learned Government Pleader for Labour appearing on behalf of the respondents had contended that neither in the writ affidavit nor before the Labour Court the petitioner has demonstrated that he has completed 240 days of continuous service. In the absence of such an averment, there cannot be any violation of Section 25-F of the Act and as there are no merits in the writ petition, it is liable to be dismissed.

This Court, having considered the rival submissions made by the parties, is of the view that no material is placed before this Court demonstrating that the petitioner was continued for 240 days so as to complain about non-compliance of Section 25-F of the Act. In the absence of any such averment in the writ affidavit or the material annexed to it, this Court cannot interfere with the order passed by the Labour Court more over when no illegality or irregularity is pointed by the petitioner in the said order.

This Writ Petition is devoid of merits and is, accordingly, dismissed. There shall be no order as to costs. Miscellaneous petitions pending, if any, shall stand closed.

(ABHINAND KUMAR SHAVILI, J)

01st November, 2018
JSU

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI



Writ Petition No.22862 of 2002

Date: 01.11.2018

JSU