

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.26270 of 2005

ORDER :

This writ petition is filed by the petitioner seeking Writ of Certiorari to quash the impugned Award dated 31.07.2001 in I.D.No.7 of 1994 holding it as arbitrary and illegal and sought all consequential benefits, such as protection of seniority among Casual Mazdoors for the benefits like grant of temporary status and absorption as Regular Mazdoor in Group-D Employees' Scale and Wage benefits on the principle of 'Equal Wage – Equal Work' etc.

The petitioner was initially appointed as Casual Mazdoor on 18.06.1982 and he was allowed to work upto 21.06.1983 and thereafter the petitioner was once again engaged by the respondents on 20.07.1984 and he was allowed to work upto 31.07.1985. The petitioner contends that since he has completed more than 240 days of service as Casual Mazdoor in the respondent Organisation, he is entitled to be considered for regularisation of his services as Casual Mazdoor, but the respondents are not regularising his services as Casual Mazdoor and also not granting temporary status even after completion of 240 days of service. When the petitioner pursued his remedies before the Conciliation Officer through Registered Union, the Conciliation Officer has entertained the dispute and submitted a failure report to the appropriate Government i.e., Government

of India, Ministry of Labour, which inturn referred the dispute to the Industrial Tribunal under Section 10(1)(d)(2A) of the Industrial Disputes Act, 1947, vide order dated 11.01.1994 and after adjudicating the said reference, the Tribunal vide order dated 17.09.1994 in I.D.No.7 of 1994 passed orders holding that the petitioner is not entitled for regularisation of his services. Challenging the said order dated 17.09.1994 in I.D.No.7 of 1994, the petitioner has preferred W.P.No.8333 of 1996 and this Court was pleased to allow the said writ petition vide order dated 14.11.2000 and remanded the matter to the Industrial Tribunal for fresh consideration of the issue strictly in terms of the reference made by the Government of India, Ministry of Labour, vide its proceedings dated 11.01.1994, with a specific direction to the Tribunal to confine itself to the reference and adjudicate the same in accordance with law, within a period of six months from the date of receipt of a copy of the said order. In pursuance of the orders passed by this Court, the matter was remitted to the Tribunal and the Tribunal rejudicated the entire case of the petitioner in terms of the reference dated 11.01.1994 and passed orders on 31.07.2001 holding that the petitioner is not entitled for regularisation of his services. Challenging the same, the present writ petition is filed.

Heard Sri C. Ramesh Sagar, learned counsel for the petitioner and Ms. P. Sarada, learned Standing Counsel for the respondent - BSNL.

Learned counsel for the petitioner contends that the Tribunal ought to have appreciated the fact that the petitioner has completed more than 240 days of service as Casual Mazdoor and, therefore, the petitioner is entitled for regularisation of his services and that the Tribunal ought to have awarded reasonable compensation in favour of the petitioner for not continuing him beyond 31.07.1985 and contends that appropriate orders be passed in the writ petition directing the respondents to reinstate the petitioner into service as Casual Mazdoor with all consequential benefits and also regularise the services of the petitioner as Casual Mazdoor by duly taking into account the fact that the petitioner had completed 240 days of service during the period from 18.06.1982 to 21.06.1983 and from 20.07.1984 to 31.07.1985.

On the other hand, the learned Standing Counsel for the respondent Organisation submits that the Tribunal has considered all the facts and legal position and rightly declined to grant any relief to the petitioner and contends that the respondents have neither retrenched the petitioner nor issued any termination orders against the petitioner and the petitioner on his own volition has abandoned the duties without any prior

notice. Therefore, it is contended that there are no merits and the writ petition is liable to be dismissed.

This Court, having considered the rival submissions of the learned counsel for the respective parties, is of the considered view that the Tribunal has rightly passed orders without granting any relief to the petitioner as no right has accrued in favour of the petitioner. Merely on completion of 240 days of service during 1982 to 1985, that too intermittently, the petitioner is not entitled for regularization of his services. Further, since the petitioner has not discharged his duties after 31.07.1985, the question of considering his case for regularization of services, at this point of time, would not arise.

For the aforesaid reasons, there are no merits in the writ petition and the same is accordingly dismissed. No order as to costs.

As a sequel, miscellaneous petitions pending, if any, in this writ petition shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

28.01.2019.
Msr

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