

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION Nos.16733 OF 2001 AND 16343 OF 2004

COMMON ORDER:

Since the issue involved in both the writ petitions is one and the same, they are being disposed of by this common order.

W.P.No.16733 of 2001:

2. This writ petition is filed seeking to call for the records related to and connected with the Award in I.D.No.88 of 1997, dated 28.10.2000, on the file of the Presiding Officer, Labour Court-II, Hyderabad and set aside the same.

W.P.No.16343 of 2004:

3. This writ petition is filed to call for the records in and connected with the order dated 13.04.2004 in M.P.No.7 of 2003 in I.D.No.88 of 1997 on the file of the Presiding Officer, Labour Court-II, Hyderabad and set aside the same.

4. The facts of the case, in brief, are as follows:

(a) A.Preman Pillai and M.Chellailah (respondent Nos.2 and 3 in W.P.No.16343 of 2004) joined service of M/s.Best & Crompton Engineering Limited on 11.01.1981 and 25.01.1980 respectively and continuously worked in that company up to 31.03.1991 as Electricians. As a part of their duty, they used to attend the work of Hyderabad Metropolitan Water Supply and Sewerage Board (petitioner in both the writ petitions) at 132/8.6 KV Electrical Sub Station at Peddapur. While so, the Chief General Manager

(Projects) of the petitioners-Board asked M.Chellailah and A.Preman Pillai to resign from the services of M/s. Best & Crompton Engineering Limited and join the services of the petitioners-Board. On the assurance given by the Chief General Manager (Projects), they resigned from the services of their company and joined in the petitioners-Board on 01.04.1991 and continued to work without any break. Though the said persons have been continuously working as Electricians, the petitioners-Board used to pay them daily wages as per S.S.R. Electrician Wages (skilled), without regularizing their services. The said persons submitted several representations to the petitioners-Board for regularization of their services, but no action has been taken thereon.

(b) In such circumstances, the said employees approached the Union of the Board i.e., The Union of Water Supply & Sewerage Board Employees (respondent No.1 in W.P.No.16733 of 2001), which in turn, submitted a representation dated 13.11.1995 to the petitioners-Board for regularization of their services. When no action has been taken, the Union submitted a representation to the Assistant Commissioner of Labour, Sangareddy, to intervene in the matter and to resolve the dispute. The Assistant Commissioner of Labour intervened in the matter and convened a meeting, in which, the petitioners-Board assured that as soon as the said employees complete five years of service, their case would be considered for regularization. When the services of said employees were not

regularized even after completion of five years of service, the matter was referred to the Labour Court under Section 10-1(c) of the Industrial Disputes Act, 1947 for adjudication of the dispute as per G.O.Rt.No.2700, dated 30.09.1997.

5. After considering the oral and documentary evidence on record, the Labour Court, by its Award dated 28.10.2000, answered the reference stating that the Board is not justified in denying the regularization of the services of M.Chellaiah and A.Preman Pillai ignoring the assurance given by the Chief General Manager (Projects) at the time of their drafting into the Board and that M.Chellaiah and A.Preman Pillai are entitled to the regularization of their services as Electricians w.e.f. 01.04.1991 and also to all consequential benefits including difference of wages. Subsequently, M.Chellaiah and A.Preman Pillai filed M.P.No.7 of 2003, seeking to compute the benefits payable to them and direct the Board to pay the same. The Labour Court, by order dated 13.04.2004, allowed the said MP. Aggrieved by the Award dated 28.10.2000 and order dated 13.04.2004, the Board filed W.P.Nos.16733 of 2001 and 16343 of 2004, respectively.

6. Learned counsel for the petitioners-Board submits that A.Preman Pillai and M.Chellailah voluntarily joined the service on daily wage basis as labourers and that as they are skilled labourers, they are being paid wages applicable to the skilled labourers. The employment of the petitioners-Board is governed by

various service rules, instructions of the government and Government Orders as per law. The rules of reservation, preference to local employee and selection process etc., are condition precedent for regular employment. The daily rates employees of NMR workers will be taken to meet the requirement of some urgent works. Every daily wage worker is not eligible for regularization of his services from the date of his initial engagement. There is prohibition on the regularization of services as the Government found that several persons are entering the service by back door methods and thereby depriving the opportunities to the deserving and qualified youth. For direct recruitment to the post of Electrician, a person should possess ITI in electrical trade. A daily wage worker will become general purpose employee on time scales of pay after completion of five years of service and thereafter, depending upon the vacancies and seniority, a general purpose employee will be promoted a special purpose employee. Thereafter, the employee will be eligible to become Electrician, provided possessing of Electrical ITI qualification and availability of vacancies. If the services of said employees are regularized, several claims of other daily wage workers will be raised putting the management in embarrassing. Basing on the above submission, the learned counsel seeks to set aside the orders of the Labour Court.

7. Sri A.K.Jaya Prakash Rao, learned counsel appearing for M.Chellaiah and A.Preman Pillai and Union, submits that the

Labour Court passed well reasoned orders and there are no grounds to interfere with the same and seeks to dismiss the writ petitions.

8. It is not the case of the petitioners-Board that M.Chellaiah and A.Preman Pillai were not the regular employees of M/s.Best & Crompton Engineering Limited. It is not denied by the petitioners-Board that while said employees were attending the work of the petitioners-Board at 132/6.6 K.V. Electrical sub-station at Peddapur, their Chief General Manager (Projects) asked them to resign to the services of Best & Crompton Engineering Limited and join the services of the petitioners-Board on the assurance that their services will be regularized. It is also not in dispute that when said employees made a representation to the Assistant Commissioner of Labour, Sangareddy for regularization of their services, the petitioners-Board admitted before him that as soon as they complete five years of service, their case would be considered for regularization. The said employees have also passed competent test for Wireman post in the year 1991 and possessed the requisite qualification. If the then Chief General Manager (Projects) of petitioners-Board has not given assurance to absorb them in regular vacancy, the said employees would not have quit their previous employment and join the petitioners-Board. The action of the petitioners-Board in promising to provide job and regularize at first stage and later denying the legitimate right of the said employees is hit by doctrine of legitimate expectation.

9. It is to be noted that when the said employees left their ten years service in the previous company and joined the service of the petitioners-Board, on the assurance made by the then Chief General Manager (Projects), and discharged their duties for a considerable period, denying the regularization of their services is bad and unjust. By discussing all the above aspects, the Labour Court has rightly observed that the said employees are entitled to regularization of their services as Electricians with effect from 01.04.1991. Hence, there are no grounds warranting interference with the Award of the Labour Court and accordingly, W.P.No.16733 of 2001 is liable to be dismissed.

10. During the course of arguments, the learned counsel for the petitioners-Board contended that the action of the then Chief General Manager in offering and appointing the said employees is unauthorized and he is liable for action. When this Court has asked to place evidence on record to show as to what action the petitioners-Board has initiated against the then Chief General Manager, the counsel replied no action is initiated. This kind of arguments cannot be appreciated. The petitioners-Board, being a Government institution, is expected to take care of its employees by all means. Further, W.P.No.16343 of 2004 which was filed seeking to set aside the consequential order of the Labour Court directing the petitioners-Board to pay the amounts due to the said employees is concerned, it is a consequential litigation, and at the time of admission of the said writ petition, this Court granted

interim suspension on 14.09.2004 in WPMP.No.21326 of 2004, on condition of petitioners-Board depositing half of the amount determined. It is agreed by both sides that the said order has been complied with. In view of upholding the Award of the Labour Court dated 28.10.2000 in I.D.No.88 of 1997 in W.P.No.16733 of 2001, the W.P.No.16343 of 2004 deserves to be dismissed.

11. For the reasons stated above, both the writ petitions are dismissed, confirming the Award dated 28.10.2000 in I.D.No.88 of 1997 and consequential order dated 13.04.2004 in M.P.No.7 of 2003 in I.D.No.88 of 1997 on the file of the Labour Court-II, Hyderabad. Miscellaneous petitions pending, if any, in these writ petitions shall stand closed. No costs.

Date: 30.01.2020
TJMR

T.AMARNATH GOUD, J