

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

**W.P.Nos.25427, 25762, 25763, 27148, 27732, 27738,
27739, 27740, 27741, 27742, 27743, 27744, 27745, 27746,
27756, 27775 & 27778 of 2014**

COMMON ORDER:

These writ petitions are being disposed of by this common order, as the issue raised in these writ petitions is one and the same.

For the convenience, the facts in W.P.No.25427 of 2014 herein are discussed.

W.P.No.25427 of 2014 is filed for writ of certiorari calling for the records related to and connected with Award dt.30.08.2013 passed in L.C.I.D. No.2 of 2006 on the file of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad and quash or set aside the same by holding it as arbitrary and illegal.

Heard Sri N.Rajeshwar Rao, learned Assistant Solicitor General of India and Sri G.Ravi Mohan, learned counsel appearing for respondent workmen.

It has been contended by the Assistant Solicitor General appearing for the petitioner that the respondent-workmen were engaged to discharge duties of cleaning of storm water drains and clearance of garbage on roads and for upkeep of DAE Housing Colony through Contractor and that they were never employed directly by the petitioner. There is no master and servant relationship between the petitioner and the respondent-workmen. While so, the respondent-workmen along with other workmen had filed W.P.No.29210 of 1998 seeking a direction to

regularise their services and this Court allowed the said writ petition vide order dated 25.09.2000 directing the petitioner herein to regularise the services of the respondent-workmen herein. Aggrieved by the said order, the petitioner herein carried the matter in appeal i.e. W.A.No.1602 of 2000 and the Division Bench of this Court allowed the said writ appeal vide order dated 22.03.2001 by setting aside the order dated 25.09.2000 in W.P.No.29210 of 1998. However, liberty was given to the respondent-workmen to raise Industrial Dispute before the appropriate forum. Thereafter, the respondent-workmen further carried the matter to the Hon'ble Supreme Court by filing SLP.No.13451 of 2001 and the Supreme Court dismissed the said SLP during March, 2001 giving opportunity to the respondent-workmen to raise Industrial Dispute. Thereafter, after a lapse of five years, the respondent-workmen filed LCID.No.02 of 2006 and batch of cases before the Central Government Industrial Tribunal, Hyderabad contending that the services of the respondent-workmen were orally terminated with effect from 23.10.1998 and the Industrial Tribunal had entertained the said dispute under Section 2-A(2) of the Industrial Disputes Act, 1947 (for short 'the Act') and had mechanically allowed LCIDs preferred by the respondent-workmen by setting aside the termination orders dated 23.10.1998 and the Tribunal directed that the respondent-workmen be reinstated into service with full back wages from the date of termination till reinstatement. The Assistant Solicitor General further contends that the Labour Court had

not even looked into the counter affidavit filed by the petitioner and none of the contentions in the counter affidavit were taken into consideration while allowing the IDs preferred by the respondent-workmen. He further contends that the Labour Court failed to appreciate that the respondent-workmen were not the employees of the petitioner and that they were engaged through a Contractor. To that effect, he has drawn attention to page No.5 of the material papers annexed to the writ petition i.e., letter dated 30.09.1997, which was addressed by the petitioner to one P.Ramana Reddy who was the Contractor through whom, the respondent-workmen were engaged. Therefore, the findings of the labour Court that the respondent-workmen were the employees of the petitioner is totally incorrect and the same is liable to be set aside. The Labour Court mechanically directed the petitioner to regularise the services of the respondent-workmen that too with full back wages without there being a finding, whether the petitioner had really terminated the services of the respondent-workmen or not. He further contends that on the earlier round of litigation, the Division Bench of this Court has categorically held that the respondent-workmen are not entitled for regularisation and in view of such finding, the question of reinstating the respondent-workmen into service that too with full back wages, does not arise. Therefore, he contends that appropriate orders be passed in the writ petitions by setting aside the orders passed by the Industrial Tribunal in LCID.No.02 of 2006 and batch of cases and allow the writ petitions.

Learned counsel for the respondent-workmen contends that the respondent-workmen were working with the petitioner since 1992 and the letter relied upon by the petitioner is dated 30.09.1997. If the respondent-workmen were really engaged through a Contractor way back in 1997 vide letter dated 30.09.1997, it would mean that even before the work was entrusted to the Contractor by the petitioner, the respondent-workmen were already in service and were discharging their duties without any break from 1992. He further contends that on earlier occasion, the respondent-workmen filed W.P.No.29210 of 1998 before this Court seeking regularisation of their services and this Court allowed the said writ petition vide order dated 25.09.2000. Against the said judgment W.A.No.1602 of 2000 was filed before the Division Bench and the Division Bench allowed the Writ Appeal vide order dated 22.03.2001. However, the Division Bench gave liberty to the workmen to raise Industrial Dispute against the termination of their services during the pendency of the writ petition which was filed in 1998. Accordingly, the respondent-workmen raised Industrial Dispute before the Industrial Tribunal under Section 2-A(2) of the Act and the labour Court has framed six specific issues and the important issue which was framed was, whether there is any relationship of workman and management between the respondent-workmen and the petitioner and the said issue was answered in favour of the respondent-workmen with a consequential finding that the respondent-workmen worked with the petitioner organisation and the petitioner has not

disputed the same before the Labour Court. Since petitioner had violated Section 25-F of the Act, the Labour Court has set aside the oral termination orders and directed the petitioner to reinstate the respondent-workmen into service with full backwages. Therefore, he contends that the order passed by the Industrial Tribunal is a reasoned order and it has given cogent reasons for allowing the IDs preferred by the respondent-workmen.

This Court, having considered the rival submissions made by the learned counsel for the respective parties, is of the considered view that though the principal contention of the Assistant Solicitor General is that the labour Court has not even looked into the counter affidavit filed by the petitioner and had mechanically allowed the IDs preferred by the respondent-workmen, a perusal of the Award passed by the labour Court discloses that the labour Court gave a specific finding that the respondent-workmen were engaged by the petitioner and the same was not disputed by the petitioner herein before the labour Court. The Labour Court also gave a categorical finding that the petitioner, in violation of Section 25-F of the Act, during the pendency of the writ petition, terminated the services of the respondent-workmen orally with effect from 23.10.1998. Therefore, the labour Court has rightly passed orders in favour of the respondent-workmen and has given cogent reasons while allowing the IDs preferred by the respondent-workmen. Therefore, this Court is not inclined to interfere with the Awards passed by the labour Court.

In view of the above, all these writ petitions are dismissed.

No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

08.01.2020

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