



**IN THE HIGH COURT OF KARNATAKA,
DHARWAD BENCH**

DATED THIS THE 5TH DAY OF SEPTEMBER, 2024

BEFORE

THE HON'BLE MR. JUSTICE RAVI V.HOSMANI

WRIT PETITION NO.66727 OF 2011 (L-TER)

BETWEEN:

THE MANAGEMENT OF SOUTH
WESTERN RAILWAY INSTITUTE
(NORTH) GADAG ROAD, HUBBALLI.
REPRESENTED BY ITS SECRETARY.

...PETITIONER

(BY SRI S.C.JAINAR, ADVOCATE)

AND:

SRI K. KANTA RAO,
S/O. YESURANTNAM DODDAMANI,
AGE: 43 YEARS, OCC: PRIVATE WORK,
R/O H.NO.42, CHALUKYA NAGAR,
GADAG ROAD, HUBBALLI.

...RESPONDENT

(RESPONDENT SERVED)

Digitally signed by
CHANDRASHEKAR
LAXMAN
KATTIMANI
Location: High
Court of Karnataka

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227
OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE AWARD
DATED 01/07/2011 PASSED BY THE PRESIDING OFFICER, LABOUR
COURT, HUBLI IN KID NO.08/2010 VIDE ANNEXURE-C.

THIS WRIT PETITION, COMING ON FOR PRELIMINARY
HEARING - B GROUP, THIS DAY, ORDER WAS MADE THEREIN AS
UNDER:



ORAL ORDER

Challenging award dated 01.07.2011 passed by Labour Court, Hubballi ('Labour Court' for short) in KID no.08/2010 at Annexure-C, this petition is filed.

2. Sri S.C.Jainar, learned counsel for petitioner submitted petition was by Association of employees of South Western Railway. It was submitted, respondent was appointed as Gym Caretaker and maker on table-2 as per order dated 01.12.2005. But, he was continuously absent and not reporting to work on Sundays and trying to avoid work. Not satisfied with his work, management committee terminated his services on 09.10.2009. Aggrieved, he filed KID no.08/2010, stating that he had worked continuously from 01.12.2005 to 03.09.2009 as permanent employee i.e. more than 240 days in year, his services were terminated in violation of Section 25B of Industrial Disputes Act, 1947 (for short, 'ID Act').

3. On appearance, petitioner filed written statement denying claim averments. It contended, since respondent



was employed on temporary basis, he was not workman within definition of Section 2 (a) of ID Act. Therefore, Labour Court lacked jurisdiction to entertain dispute. But, it did not frame specific issue regarding jurisdiction. Thereafter, respondent examined himself as WW1 and got marked Exhibits W1 to W4. Petitioner examined one witness as MW1 and did not mark any documents.

4. On consideration, Labour Court answered Issues no.1, 2 and 4 in Negative, issue no.3 in Affirmative and Issue no.5 by allowing claim petition in part, set-aside order of termination directed reinstatement with 25% back wages. Aggrieved, this writ petition was filed by management.

5. It was submitted, workman failed to place any specific material in support of his claim that he had worked for more than 240 days as required under Section 25B of ID Act or about activity of petitioner as an industry. It was submitted, petitioner was an Association and not an industry. Without giving any specific finding about said aspect which would go to root of matter, as it would be finding on



jurisdiction of Labour Court to entertain dispute, impugned award was passed. Therefore, same required to be set aside.

6. Heard learned counsel and perused writ petition records. Respondent was served and remains unrepresented.

7. From above, petitioner appointing respondent as Gym Caretaker and billiards table maker is not in dispute. Termination of services by issuing letter at Annexure-B is also not in dispute. Award is challenged on two grounds. Firstly, that respondent was not permanent employee and therefore, not falling within definition of workman under Section 2(s) of ID Act and as petitioner was an Association, it could not be termed as industry.

8. Definition of workman under ID Act is quite void and would include any person employed to do any skilled, unskilled, manual, supervisory, technical, clerical or operational work for higher or reward. Very fact that respondent claimed to have worked continuously from date of appointment till termination i.e. 01.12.2005 to 03.09.2009, against which petitioner herein did not lead any



specific evidence despite taking specific contention that termination of service was on account of respondent remaining absent continuously and not showing sufficient interest in work. Petitioner being employer and therefore custodian of records would be another factor going against such contention.

9. Moreover, while passing award, Labour Court has referred to provisions of Section 2(j), 2(s) as well as Section 25F of ID Act to arrive at conclusion that respondent was workman, that it had jurisdiction and termination from service was violative of Section 25F of ID Act. Admittedly, though petitioner pleaded that it was an Association and not an industry, no evidence was led or material about nature of its activities placed on record. In view of observation in ***Bangalore Water Supply & Sewerage Board v. A. Rajappa*** reported in ***(1978) 2 SCC 213***, that even clubs, societies, hospitals, educational institutions etc., would also be industries, award passed by Labour Court cannot be faulted with.



10. For aforesaid reasons, there would be no scope for interference. Writ petition is dismissed.

Sd/-
(RAVI V.HOSMANI)
JUDGE

CLK
CT-ASC
List No.: 1 SI No.: 30