

The Assistant Executive and Others Vs. G.N. Narayan

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Court : Karnataka

Decided On : Feb-24-2016

Judge : Jayant Patel & The Honourable Mrs. Justice S. Sujatha

Appeal No. : Writ Appeal No. 387 of 2012 [L-TER]

Appellant : The Assistant Executive and Others

Respondent : G.N. Narayan

Advocate for Def. : Mr. S.B. Mukkann

Judgement :

(Prayer: This Appeal is filed under Section 4 of Karnataka High Court Act to set aside the order passed in the writ Petition No.3434/2009(L-TER) Dated 11.03.2010.)

1. The present appeal is directed against the Order dated 11.03.2010 passed by the learned Single Judge, in Writ Petition No.3434/2009 whereby the learned Single Judge for the reasons recorded in the order, has rejected the petition.

2. The short facts of the case appears to be that as per the respondent-workman, he was appointed as Literate Assistant on daily wage basis in the month of July 1984. As per the appellants, on 1.8.1985, the respondent-workman was not continued further in his employment. The dispute was raised before the Competent Authority and ultimately the said dispute was referred to the Labour

Court for adjudication being Reference No.102/1994. The Labour Court ultimately passed the Award on 22.11.2006, directing for reinstatement with same status and with the further clarification that the order of reinstatement does not amount to regularization of service or permanency of job. The said Award came to be challenged by the appellants in the writ petition before this Court. The learned Single Judge found that as per the evidence on record, the respondent-workman had worked for 396 days immediately prior to termination and no notice nor any retrenchment compensation was paid as required under Section 25F of the Industrial Disputes Act, 1947 [hereinafter referred to as ID Act , for short]. Ultimately the learned Single Judge dismissed the petition. Under the circumstances, the present appeal.

3. We have heard Mr. Y.D. Harsha, learned Additional Government Advocate appearing for the appellants and Mr. G.S. Naveen Kumar, learned Counsel appearing for Mr. S.B. Mukkannappa, learned Counsel for the respondent.

4. Learned Counsel for the Appellants mainly raised two contentions. One was that the Department of the Government, namely, Public Works Department could not be treated as industry and consequently the provisions of the ID Act would not apply nor the Labour Court will have jurisdiction to pass the Award. The second contention raised by him was that the finding recorded for the alleged breach of Section 25F of the ID Act by the Labour Court and its confirmation thereof by the learned Single Judge deserves to be interfered with.

5. The first contention raised need not detain us further since the issue is no more res integra, in as much as, in the decision of the Apex Court in the case of STATE OF GUJARAT AND ANOTHERS Vs. PWD EMPLOYEES UNION AND OTHERS reported in [(2002) 10 SCC 147], the Apex Court has held that the issue is covered by the decision of the Constitution Bench in the case of BENGALORE WATER SUPPLY and SEWERAGE BOARD Vs. A. RAJAPPA reported in [AIR 1978 SC 548]. Under these circumstances, the contention that the provisions of the ID Act would not be applicable to Public Works Department of the State Government is against the settled legal position and therefore cannot be accepted.

6. On the second contention, it appears that in the cross examination of the witness examined on behalf of the appellants before the Labour Court, it was admitted that the workman worked for 396 days i.e., from 3.7.1984 to 31.12.1985. Therefore when the workman had already worked for the period exceeding 240 days, the question of applicability of compliance of Section 25F of the ID Act would arise. It is not the case of the appellants that any retrenchment compensation was paid to the respondent-workman at the time of termination by following the procedure under Section 25F of the ID Act. Under these circumstances, the finding recorded by the Labour Court and its further confirmation by the learned Single Judge for the alleged breach of Section 25F of the ID Act could not be faulted with. Hence, the contention raised on behalf of the appellants cannot be accepted.

7. If the aforesaid aspect is considered with the reasons recorded by the learned Single Judge, we do not find that the order passed by the learned Single Judge deserves to be interfered with. Hence, the appeal is meritless and therefore dismissed. Considering the facts and circumstances, no order as to costs.

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