

THE HON'BLE MR JUSTICE L. NARASIMHA REDDY

Writ Petition No.22972 of 1999

ORDER:

The 1st respondent approached the Union of India with a request to refer his dispute with the petitioner herein to the Industrial Tribunal. On a consideration of the same, the Central Government referred the matter to the Industrial Tribunal, the 2nd respondent, and the same was taken up as I.D.No.17 of 1998. The dispute was, as to whether the action of the

1st petitioner herein in terminating the services of the 1st respondent without following the procedure under the Industrial Disputes Act (for short 'the Act'), is justified.

The 1st respondent pleaded that he was engaged as Extra Casual Labour Gangman under the Permanent Way Inspector (PWI), in South Central Railway, Ongole, on 10.10.1976, and that he was being paid daily wages @ Rs.4.50 ps. It was also stated that his services were being utilized as Carpenter Kalasi. He alleged that after one Mr.Chennulu took over as PWI in November, 1978, he asked him suddenly to work as a Gangman under a Maistry by name, Kondaiah and there he worked up to 10.03.1979. He was said to have been subjected to medical test to ascertain his fitness. By narrating the subsequent developments, the

1st respondent ultimately stated that he was orally retrenched with effect from 02.04.1979. It was alleged that the procedure prescribed under Section 25-F of the Act was not followed. On receiving the notice, the petitioner opposed the claim of the 1st respondent. Through its award, dated 28.12.1998, the 2nd respondent held that the discontinuation of the 1st respondent from work by the petitioner is contrary to law and issue a direction to the petitioner to take him into casual service afresh. The same is challenged in this writ petition.

Heard learned counsel for the petitioners and learned counsel

for the respondents.

The circumstances, under which this Court can interfere with an award passed by the Labour Court, are very limited. In this case, though an attempt is made by the learned counsel for the petitioners to convince this Court that there was no relationship of employer and employee between the petitioner and the 1st respondent, the record clearly discloses that the 1st respondent was included in the muster for quite a long time. He squarely answers the description of workman as defined under the Act. Having regard to the length of the time for which, the 1st worked, he could not have been retrenched except by following the procedure prescribed by law. Admittedly no such procedure was followed. The Industrial Tribunal has undertaken extensive discussion on the basis of the voluminous evidence placed before it to arrive at just and proper conclusions. The petitioner is not able to point out any perversity in the award or lack of jurisdiction in the Tribunal.

Hence, the Writ Petition is dismissed. There shall be no order as costs.

L. NARASIMHA REDDY, J.

Dt.29.06.2010.
GJ