

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO. 4156/1997

And

WRIT PETITION NO. 35098/1997

DATE: 09-03-2007

In WRIT PETITION NO. 4156/1997:

Between :

1. The Executive Engineer, Roads & Buildings Dept.,
Regular, Srikakulam., and 2 others. ... Petitioners

And

1. The Industrial Tribunal-cum-Labour Court,
Visakhapatnam, rep. by its Chairman and
Presiding Officer., and another. .. Respondents

In WRIT PETITION NO. 35098/1997:

Between :

Kurmapu Thata Rao ... Petitioner

And

1. The Industrial Tribunal-cum-Labour Court,
Visakhapatnam, rep. by its Chairman and
Presiding Officer., and another. .. Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO. 4156/1997

And

WRIT PETITION NO. 35098/1997

COMMON ORDER:

These two writ petitions which are directed against the award dated 12-06-1996 in I.D.No.179 of 1993 on the file of the Industrial Tribunal, Visakhapatnam are heard and decided together.

The facts, in brief, are as under:

The petitioner in W.P.No.35098 of 1997, filed an application under Section 2A (2) of Industrial Disputes Act, 1947 (for short, 'the Act') challenging his retrenchment from service by the Roads and Buildings Department of Andhra Pradesh Government, Srikakulam. It is his case that having joined the Department in the year 1973 he had worked at different places without any break. It is contended that termination of his services in the year 1989 without any notice is illegal and he is entitled for reinstatement. The said petition was contested by the Department contending that the petitioner did not work continuously during the period and he did not work for 240 days in one year before his removal and therefore, he is not entitled to notice or retrenchment compensation as contemplated under Section 25F of the Act.

The workman got himself examined as W.W.1 and marked Ex.W.1 service certificate. On behalf of the management, the Assistant Executive Engineer, Roads & Buildings Department,

Pathapatnam, Srikakulam was examined as M.W.1 and Ex.M.1 statement showing working particulars of the workman was filed. On appreciation of the evidence on record both oral and documentary, the Tribunal below held that the retrenchment of the workman without giving notice and without paying the retrenchment compensation as required under Section 25F of the Act is illegal and invalid. The Tribunal below disbelieved the plea of the management that the workman did not work continuously for more than 240 days and accordingly, ordered reinstatement of the petitioner. However, having regard to the fact that the whereas the petitioner was retrenched from service in the year 1989 he approached only in the year 1993 the Tribunal below thought it fit to award a lumpsum amount Rs.25,000/- towards compensation instead of back wages. Aggrieved by the said award dated 12-06-1996, the management filed W.P.No.4156 of 1997. So far as rejection of back wages, the workman filed W.P.No.35098 of 1997.

Having heard the learned counsel for both the parties in detail and having perused the material available on record, I do not find any justifiable reason to interfere with the award under challenge. The findings recorded by the Tribunal below are based on proper appreciation of the evidence on record and the conclusion of the Tribunal in accordance with the settled principles of law.

In the circumstances, the interference by this Court by issuing a writ of Certiorari is not warranted.

It is also relevant to note that pending these writ petitions, in compliance with the impugned award, the workman was reinstated and half of the compensation awarded was also paid. Accordingly, there shall be a direction to the Management to pay the balance of compensation awarded to the workman within a period of 8 weeks

from the date of receipt of a copy of this order.

Accordingly, the impugned award dated 12-6-1996 is upheld and both the Writ Petitions shall stand dismissed. No costs.

G. ROHINI, J.

Dt. 09-03-2007

Note: Issue C.C. in one week.

B/o

KLP

