

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 11654 of 2002

Between:

1. G.Satyanarayana, S/o.G.Subba Rao,

Age:31 yrs, R/o.Rajahmundry, E.G.District.

2 S.Veeranna, S/o.S.Venkanna,

Age:33 yrs, R/o.Ravulapalem, E.G.District.

3. K.R.G.Krishna Murty, S/o.Rama Rao,

Age:35 yrs, R/o.Palakollu, E.G.District.

4. D.Narasimha Rao, s/o.Pitchaiah,

Age:31 yrs, R/o.Rajahmundry, E.G.District.

5. V.Venkateswarllu, S/o.appa Rao,

Age:35 yrs, R/o.Rajahmundry, E.G.District.

..... PETITIONER

AND

1. Executive Engineer, APSRTC, Civil Engineering Department,
Rajahmundry, E.G.District.

2. Deputy Executive Engineer ©, APSRTC, Rajahmundry, Kakinda, East
Godavari Region, E.G. District.

3. Vice-Chairman-cum-Managing Director, APSRTC, Musheerabad,

Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents to terminate the petitioners services from 01.07.2002 as illegal, arbitrary and against the principles of natural justice.

Counsel for the Petitioners:MR.T.S.VENKATARAMANA

Counsel for the Respondents : KUM.B.G.UMA DEVI

The Court at the admission stage made the following O R D E R:

This writ petition is filed seeking a Writ of Mandamus declaring the action of the respondents in terminating the services of the petitioners from 01.07.2002 as illegal and arbitrary.

The case of the petitioners is that they have been working in the respondent-Corporation since 1987 onwards and were being paid Rs.1,500/- p.m. towards salary by the first and second respondents. It is stated that the petitioners were sent to checkup by the first and second respondents to the APSRTC, dispensary Taranaka Hospital, Hyderabad. It is also stated that the respondent-Corporation absorbed the persons who have worked as casual/contract labour worked for about 240 days in pursuance of circular No.P.D.No.163 of 1989, dated 20.12.1989 and, therefore, through Union made representation to the third respondent seeking for regularization of their services. As the respondents terminated the services of the petitioners from 01.07.2002, the present writ petition is filed.

Respondents filed a counter affidavit stating that the petitioners never worked in the respondent-Corporation, and hence, the point of transferring the petitioners from place to place does not arise. It is further stated that they might have been employed by civil contractors, who are attending to the civil works in APSRTC and the contractors inturn might have utilized the services of

the petitioners at different places whenever civil works are entrusted to contractors. It is also stated that the petitioners were never engaged by the respondents-Corporation and they have never been deputed to APSRTC Dispensary for medical check-up, and therefore, the respondent-Corporation prays to dismiss the writ petition.

Learned counsel appearing for the petitioners vehemently contended that the petitioners are engaged as casual contractors in Civil Engineering Department by the respondent-Corporation. He further contended that the receipts and the letters addressed to the Chief Law Officer by the Executive Engineer would indicate that the wages were transmitted to the concerned contractor for supply of contract labour and hence, it would indicate that the services of the petitioners were utilized by the respondent-Corporation. He also contended that after due enquiry, the Labour Department enrolled the petitioners into provident fund and were given identity cards, and, therefore, prays to allow the writ petition.

On the other hand, learned counsel for the respondent-Corporation contended that the petitioners were never engaged by the respondent-Corporation and were engaged by the contractor and therefore, the employer and employee relationship doesn't exist between the petitioners and respondent-Corporation. Hence, prays to dismiss the writ petition.

It is specifically contended by the respondent-Corporation that it never engaged the petitioners. Whether the petitioners were directly engaged or appointed by the respondent-Corporation or whether the relationship of employer and employee exists between the petitioners and respondent-Corporation is to be decided after adducing necessary evidence before the Tribunal or any other competent forum. Such disputed questions of fact cannot be determined and decided by this Court while exercising the powers under Article 226 of the Constitution of India.

Accordingly, the writ petition is disposed of directing the petitioners to approach the appropriate forum for redressal of their grievances. However, the petitioners are at liberty to raise all the contentions before the appropriate forum. Interim order granted earlier is hereby vacated.

13.06.2005

usd

To

1. The Executive Engineer, APSRTC, Civil Engineering Department,
Rajahmundry, E.G.District.
2. The Deputy Executive Engineer ©, APSRTC, Rajahmundry, Kakinda, East
Godavari Region, E.G. District.
3. The Vice-Chairman-cum-Managing Director, APSRTC, Musheerabad,
Hyderabad.
4. Two CD copies.