

**THE HONOURABLE SRI JUSTICE V. ESWARIAH**

**WRIT PETITION No.22016 OF 1995**

**DATED: 31-10-2006**

**BETWEEN**

The Chief Engineer (Mech.),  
Manoranjan Building,  
M.J. Road, Hyderabad and others.

...PETITIONERS

**AND**

Md. Yaseen, S/o. Md. Moulana,  
R/o. 10-97, Near Seetharampuram,  
Miryalaguda and another.

...RESPONDENTS

**ORDER:**

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Heard the learned counsel for the petitioners. None appeared for the respondents in spite of service of notice as long back as on 21.12.1995.

This writ petition has been filed by Workshop and Machinery Division, Nagarjuna Sagar Canal, Tekulapally of Irrigation Department aggrieved by the award dated 12.12.1994 passed in I.D.No.652 of 1993 by the Presiding Officer, Labour Court, Hyderabad. While admitting the writ petition the impugned award was suspended by order dated 28.09.1995 in WPMP.No.27078 of 1995 but no application had been filed to vacate the interim order and thus the award of the Labour Court has not at all been implemented and no action has been taken by the workmen also seeking his reinstatement as ordered by the Labour Court.

It is the case of the petitioners that the first respondent worked in one

of the Sub-Divisions of the Executive Engineer, Workshops and Machinery Division, NSC i.e. Nagarjuna Sagar Left Canal, Tekulapally from 15.11.1968 to 31.10.1972 and the entire work of the Nagarjuna Sagar Project was completed by the early years of 1970.

After completing the major portion of the project work and after releasing the water, most of the employees of the project including the division of the third petitioner had become surplus and continuing of the surplus employees became burden to the project. Therefore, the third petitioner – Executive Engineer, issued a notice under Section 25-F of the Industrial Disputes Act (for short ‘the Act’) to the first respondent and others intending to retrench them due to reduction of workload and lack of funds. The committee consisting of secretary to Government and seven others in the meeting held on 09.10.1972 to review the surplus employees of Nagarjuna Sagar decided that out of the declared surplus, the services of the work charged personnel who have put less than 5 years of service could be dispensed with. Accordingly, the third petitioner vide proceedings dated 30.10.1972 issued proceedings under Section 25-F of the Act retrenching the services of the first petitioner with effect from 31.10.1972. Questioning the said retrenchment the first respondent filed W.P.No.5071 of 1972 before this Court, which was dismissed against which an appeal in W.A.No.890 of 1973 was preferred, which was also dismissed by order dated 31.01.1974. It is stated that the judgment of the Division Bench has become final.

It is the further case of the petitioners that the first respondent having waited for a period of 21 years approached the Labour Court on 22.08.1992 by raising an industrial dispute in I.D.No.652 of 1993 under Section 2A(2) of the Act and the Labour Court without any justification whatsoever relying on a judgment of the Supreme Court in W.P.No.657 of 1987 wherein the Supreme Court set aside the retrenchment order dated 31.10.1972 relating to some other workmen and directed the department to provide work wherever it is available and appoint him in future vacancies by protecting his past

service and seniority.

Learned counsel for the petitioners submits that the first respondent is not one of applicants in the said writ petition filed before the Supreme Court and more so the said judgment was not a judgment in rem but judgment in personam. The Labour Court ought not to have passed the impugned award directing the department to appoint the first respondent in future vacancies by protecting his past service and seniority. The learned counsel further submits that there is an abnormal delay on the part of the first respondent in raising the industrial dispute after a period 21 years and the Labour Court also without properly appreciating the oral and documentary evidence erroneously allowed the said ID.

I am of the opinion that the impugned award passed by the Labour Court is against the evidence available on record and without any justification. Having regard to the facts and circumstances of the case, the writ petition is accordingly allowed as prayed for. There shall be no order as to costs.

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V. ESWARIAH, J

October 31, 2006  
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