

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

—

WRIT PETITION NO: 24977 of 1998

Dated: 28-09-2007

Between:

M.Sudarshan Reddy

..... **PETIT**

AND

Presiding Officer,
Labour Court-II,
Chandravihar Building,
Hyderabad and another.

.....RESPONDI

-
-
HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

-
WRIT PETITION No. 24977 of 1998
-

ORDER:

-
-
This writ petition is filed for a writ of certiorari to quash the award dated 22-10-1997 passed by the Presiding Officer, Hyderabad in I.D.No.818 of 1992 (119/1992 old).

The petitioner worked in respondent No.2 organization from August 1979 till 10-11-1987 in its Quality Control Department. In the year 1992, he raised an industrial dispute under Section 2-A (2) of the Industrial Disputes Act, 1947 on the plea that his discontinuance from work with effect from 10-11-1987 constitutes termination by the employer without following the procedure under the Act. The Labour Court framed four issues, which are as under:

- 1) Whether the petitioner filed the petition within a reasonable time?
- 2) Whether the petitioner was illegally not allowed to work from 11-11-1987?
- 3) Whether the petitioner gave his resignation to the management and whether it was voluntary?
- 4) To what relief?

On point No.1, namely, whether the dispute raised by the petitioner suffered from laches, the Labour Court found that the petitioner failed to give any explanation for the delay of 5 ½ years in approaching the Labour Court. On points 2 and 3, it found that the petitioner in his evidence has not mentioned that his resignation was obtained by the employer by force.

The Labour Court, disbelieved the evidence of WW.2-Laxman Singh, a co-worker of the petitioner, who deposed that the petitioner gave his resignation on the insistence of the employer on the ground that it is an after thought. The said two issues were therefore, found against the petitioner. Under issue No.4, while declining the relief of reinstatement, the Labour Court directed payment of Rs.7,911/- to the petitioner towards his service benefits.

Sri L.Prabhakar Reddy, learned counsel for the petitioner submitted that the petitioner has not submitted his resignation voluntarily and that the

Labour Court committed an error in ignoring the evidence of W.W.2.

I have considered the submissions of the learned counsel for the petitioner and I have not felt persuaded to accept the same. Had the petitioner been forced to submit his resignation, he would not have waited for 5 ½ years in approaching the Labour Court for redressal of his grievance. Moreover, there was no reason for him not to state in his evidence that his resignation was obtained by the employer by force. Having failed to specify and support his own plea raised in the application, he eventually pressed W.W.2 into service to fill up the lacuna. In my view, the Labour Court rightly rejected the evidence of W.W.2.

The learned counsel for the petitioner stated that though he made a claim for higher amount towards service benefits, the Labour Court restricted the same to Rs.7,911/-.

I have perused the application filed by the petitioner under Section 2A(2) of the Act. Except mentioning certain amounts which come to Rs.3,200/- in all and further mentioning that the petitioner is entitled to all the benefits including LTC on par with the other workmen under certain settlements, he has not indicted the total amounts to which he is entitled. Unless the petitioner raised specific plea that he is entitled to a particular amount, and the same was overlooked by the Labour Court, the award of the Labour Court granting Rs.7,911/- cannot be found fault with.

Since the petitioner is not certain as to the amounts which he is entitled to towards his service notice, I do not see any error in the award of the Labour Court in directing payment of Rs.7,911/- to him towards his service benefits.

For the aforementioned, the writ petition is dismissed. No costs.

C.V.NAGARJUNA REDDY,J

Date:28-09-2007
KLP