

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.21897 OF 2006

ORDER

This writ petition is filed seeking to issue a Writ of Certiorari calling for the records relating to and connected with Award dated 25.02.2006 passed in I.D.No.81 of 2001 by the Labour Court, Guntur and to quash or set aside the same by holding it as arbitrary and illegal.

Heard Sri P.Govinda Rajulu, learned counsel appearing for the petitioner and Sri P.Durga Prasad, learned Standing Counsel appearing for the respondent-Corporation.

It is the case of the petitioner that initially, he was appointed as Mazdoor in the respondent-Corporation on NMR basis in the year 1988 and he had rendered considerable length of service. While so, the respondent-Corporation has terminated him from service with effect from 1.4.1989. Challenging the same, the petitioner filed W.P.No.17223 of 1997. This Court *vide* order dated 3.3.1998 disposed of the said writ petition directing the respondent-Corporation to consider the case of the petitioner for regularization of services in the post of Cleaner/Attender/Sweeper or in any other suitable post in terms of the guidelines contained in Circular No.PD

163/1989, dated 20-12-1989. In spite of the said order, the respondent-Corporation rejected the case of the petitioner *vide* order dated 2.5.98. Challenging the said rejection order, the petitioner had filed another writ petition i.e., W.P.No.1477 of 1999 and this Court *vide* order dated 7.4.2000 allowed the same. But the respondents have once again rejected the case of the petitioner *vide* proceedings dated 3.6.2000. In those set of circumstances, the petitioner has filed contempt case and the same was closed giving liberty to the petitioner to challenge the said rejection order dated 3.6.2000 before appropriate forum. Questioning the action of the respondents, the petitioner had filed I.D.No.81 of 2001 before the Labour Court, Guntur, under Section 2-A (2) of the Industrial Disputes Act, 1947 (for short 'the Act'). The Labour Court *vide* Award dated 25-02-2006 dismissed the said ID. Challenging the same, the present writ petition is filed.

The entire controversy in the case is that one T.Suri Babu had worked as a Cleaner in the respondent-Corporation in the year 1988 and 1989 and thereafter, the said T.Suri Babu was removed from service. The name of the petitioner is also T.Suri Babu and also known as Surendra Babu. The petitioner has demonstrated before the Labour Court by filing affidavit-in-chief and led evidence by

examining the Secretary of the Gram Panchayat and also Village Servant to prove that the petitioner himself is called as T.Suri Babu and in the cross examination, it was also admitted that the petitioner had worked as a Cleaner. But this aspect was not taken into consideration by the Labour Court, and it had mechanically dismissed the said I.D.

Learned Standing Counsel appearing for the respondents contends that the Labour Court had rightly rejected the case of the petitioner and no material was produced before the respondents or before the Labour Court to demonstrate that the petitioner himself is T.Suri Babu and that the petitioner had approached the authorities after more than 11 years and on this ground alone, the writ petition is liable to be dismissed.

Having considered the said submissions, this Court is of the considered view that when the Secretary of the Gram Panhayat and also the Village Servant has specifically deposed that the petitioner is also called as T.Suri Babu, the Labour Court ought to have exercised its powers under Section 11-A of the Act and atleast reinstated the petitioner into service as Cleaner afresh in stead of rejecting his case. Therefore, ends of justice would be met if a direction is given to the respondents to reinstate the petitioner into service as Cleaner.

Accordingly, the Writ Petition is disposed of directing the respondents to reinstate the petitioner into service as Cleaner afresh without continuity of service, back wages and attendant benefits, subject to his medical fitness, within a period of four weeks from the date of receipt of a copy of this order. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

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JUSTICE ABHINAND KUMAR SHAVILI

*28<sup>th</sup> September, 2018*

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