

**IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI**

**(Special Original Jurisdiction)**

FRIDAY, THE THIRTIETH DAY OF AUGUST  
TWO THOUSAND AND TWENTY FOUR

**PRESENT**

**THE HONOURABLE SMT JUSTICE V.SUJATHA**

**WRIT PETITION NO: 27420 OF 2015**



**Between:**

G.Pulla Reddy Engineering College (Autonomous), Kurnool, Kurnool  
District, Rep. by its Secretary

**...PETITIONER**

**AND**

1. The State of Andhra Pradesh, Rep. by its Secretary to Govt., Labour, Employment Training and Factories (Labour.II) Department, A.P. Secretariat, Hyderabad.
2. P.Prahallad Kumar @ P. Prahalada Kumar, S/o. P. Ramachandraiah, aged 44 years, H.No.87-438, Sree Nagar Colony, Kurnool, Kurnool District.
3. The Industrial Tribunal cum Labour Court, Anantapuramu, Anantapuramu District, Rep. by its Chair Person cum Presiding Officer

**...RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ of Certiorari or any other appropriate Writ, order or direction, call for the records relating to and connected with the Award dated 9.4.2015 passed by the 3<sup>rd</sup> respondent in I.D.No.131/2012 and published by the 1<sup>st</sup> respondent vide G.O.Rt.No.389, Labour, Employment Training & Factories (Labour.II) Department, dated 6.7.2015 and quash or set aside the same as illegal, contrary to the provisions of Industrial Disputes Act and the settled law.

**I.A. NO: 1 OF 2015(WPMP. NO: 35598 OF 2015)**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the Award dated 9.4.2015 passed by the 3rd respondent in I.D.No.131/2012 and published by the 1st respondent vide G.O.Rt.No.389, Labour, Employment Training & Factories (Labour.II) Department, dated 6.7.2015, pending disposal of the Writ Petition.

**Counsel for the Petitioner: SRI K. RAJI REDDY**

**Counsel for the Respondent Nos.1 & 3: GP FOR LABOUR**

**Counsel for the Respondent No.2: SRI M. V. PRATAP REDDY**

**The Court made the following: ORDER**

APHC010706002015



**IN THE HIGH COURT OF ANDHRA PRADESH  
AT AMARAVATI  
(Special Original Jurisdiction)**

[3333]

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**THE HONOURABLE SMT JUSTICE V.SUJATHA**

**WRIT PETITION NO: 27420/2015**

**Between:**

G.Pulla Reddy Engineering College (autonomous),

...PETITIONER

**AND**

The State of Andhra Pradesh Rep. by its Secretary and  
two others ...RESPONDENT(S)

**Counsel for the Petitioner:**

1.K RAJI REDDY

**Counsel for the Respondent(S):**

1.GP FOR LABOUR (AP)

2.G NARENDER REDDY

3.M V PRATAP REDDY

**The Court made the following:**

## **ORDER:**

This writ petition is filed under Article 226 of the Constitution of India seeking the following relief:-

*"....to issue a Writ of Certiorari or any other appropriate Writ, order or direction, call for the records relating to and connected with the Award dated 9.4.2015 passed by the 3<sup>rd</sup> respondent in I.D.No.131/2012 and published by the 1<sup>st</sup> respondent vide G.O.Rt.No.389, Labour, Employment, Training and Factories (Labour.II) Department, dated 6.7.2015 and quash or set aside the same as illegal, contrary to the provisions of Industrial Disputes Act and the settled law...."*

2. The case of the petitioner-College in brief is that, the 2<sup>nd</sup> respondent herein approached the petitioner-College seeking employment and considering his request on humanitarian grounds, he was appointed as a Computer Operator in the petitioner-College on *ad hoc* basis on 12.08.2007. He was served with proceedings of termination of services after completion of *ad hoc* period, vide proceedings dated 20.05.2011, informing him that his services would be terminated with effect from 31.05.2011. Again, vide proceedings dated 05.06.2011, he was appointed on *ad hoc* basis and directed to report to duty on 16.06.2011. Accordingly, the 2<sup>nd</sup> respondent joined duty on 16.06.2011. In the proceedings dated 05.06.2011, it was clearly mentioned that his tenure would be upto 30.4.2012.

3. It is the further case of the petitioner-College that the management of the petitioner-College decided to fill up certain posts, including Computer



Programmer on regular basis, by following the procedure laid down under College Service Rules and as such, the Management constituted a Selection Committee and called for employees who have been working on *ad hoc* basis for interview to be held on 12.04.2012, and no outsider was called and thus, no advertisement was issued. The Selection Committee has selected 15 candidates for regular posts and those *ad hoc* employees, who were not selected for regular posts, were again given a chance to continue to work on *ad hoc* basis. Except the 2<sup>nd</sup> respondent herein, the other *ad hoc* employees, who were not selected for regular posts, have joined service on *ad hoc* basis. The 2<sup>nd</sup> respondent, having refused such offer, approached this Court by filing W.P.No.17500 of 2012 and the same was dismissed by this Court. The management accepted the merit list submitted by the Selection Committee.

4. It is the further case of the petitioner-College that the 2<sup>nd</sup> respondent filed I.D.No.131 of 2012 before the Industrial Tribunal-cum-Labour Court, Anantapuramu, contending that termination of his services orally with effect from 04.05.2012 was illegal and arbitrary and sought for a direction to the College to reinstate him into service with all consequential benefits including continuity of service, seniority, attendant benefits and backwages. The petitioner-College resisted the claim of the 2<sup>nd</sup> respondent by filing counter. The Tribunal observed that at the time of initial engagement of the 2<sup>nd</sup> respondent in the year 2007, the original certificates of the 2<sup>nd</sup> respondent were directed to be surrendered and opined that the College, having utilized

his services for about 4 years without regularizing his service and by keeping his original certificates with them, have closed the doors for any other suitable or better employment. The Tribunal further held that no notice was issued or salary in lieu thereof was not paid before termination of services of the 2<sup>nd</sup> respondent and thus, the termination was illegal and invalid. The Tribunal, accordingly, vide impugned Award dated 09.04.2015, set aside the oral termination of services of the 2<sup>nd</sup> respondent with effect from 04.05.2012 and directed the petitioner-College to reinstate him into service with continuity of service and with all other attendant benefits, if any, except back wages, within one month from the date of publication of the Award. Aggrieved thereby, the petitioner-College filed the present writ petition.

5. When the matter came up for admission on 27.08.2015, this Court passed the following interim order:

*"There shall be stay of award dated 09.04.2015 in I.D.No.131 of 2012 passed by the 3<sup>rd</sup> respondent in respect of the continuity of service only."*

6. In view of the same, the issue for consideration before this Court is only to the extent "whether the petitioner is entitled for continuity of service or not?"

7. Heard learned counsel for the petitioner-college, learned Government Pleader for Labour for respondents No.1 and 3, and Mr.M.V.Pratap Reddy, learned counsel for respondent No.2.

8. Learned counsel for the petitioner-College would submit that as the appointment of the 2<sup>nd</sup> respondent was exclusively on tenure basis and the appointment order issued in his favour itself indicates that his services will be terminated by the end of April, 2012, the question of giving one month notice or paying one month salary in lieu thereof, which is applicable only in case of retrenchment, does not arise in the case of the 2<sup>nd</sup> respondent. He further contends that since the 2<sup>nd</sup> respondent was appointed purely on *ad hoc* basis, the provisions of the Industrial Disputes Act, 1947, have no application to the facts of the present case and as such, the I.D. filed by the 2<sup>nd</sup> respondent under Section 2-A(2) of the Industrial Disputes Act, was not maintainable and without considering the same, the Tribunal has entertained the I.D. and erroneously passed the impugned Award. He further submitted that in pursuance of the Award passed by the Labour Court, the 2<sup>nd</sup> respondent is being continued in services till date.

9. On the other hand, learned counsel for the 2<sup>nd</sup> respondent in support of the impugned Award would contend that the Tribunal, having considered the facts and circumstances of the case, has rightly observed that the services of the 2<sup>nd</sup> respondent have been utilized for about 4 years without regularizing his services and keeping his original certificates with them have also rightly found fault with the action of the petitioner-College in terminating the services of the 2<sup>nd</sup> respondent without issuing any notice. He would, thus, pray for dismissal of the writ petition.



10. On perusal of the affidavit filed by the petitioner itself, it can be observed that respondent No.2 was appointed on *ad hoc* basis in the year 2012 and further the selection committee has selected 15 candidates on regular basis and the *ad hoc* employees, who were not selected for regular post, were given a chance to continue to work on *ad hoc* basis. In spite of the same, respondent No.2 has failed to join the services on *ad hoc* basis and the writ petition No.17500 of 2012 filed by the respondent was also dismissed by this Court. Thereafter, respondent No.2 filed I.D.No.131 of 2012 before the Industrial Tribunal-cum-Labour Court, Anantapuramu contending that the termination of his services with effect from 04.05.2012 was illegal and arbitrary.

11. Even as per the contention of respondent No.2, he was orally terminated from service on 04.05.2012 and the date of the Award is 09.04.2015. As per which, it is clear that respondent No.2 was not in service from 04.05.2012 to 09.04.2015. Hence, respondent No.2 is not entitled for continuity of service for the said period. Therefore, the finding recorded by the Industrial Tribunal with regard to continuity of service of respondent No.2 is liable to be set aside.

12. Accordingly, the Writ Petition is partly allowed setting aside the Award dated 09.04.2015 passed in I.D.No.131 of 2012 by the Chairman-cum-Presiding Officer, Industrial Tribunal-cum-Labour Court, Anantapuramu to the



extent of 'continuity of service' of respondent No.2 only, while confirming the other portion of the Award. There shall be no order as to costs.

As a sequel, Interlocutory Applications pending, if any, in this Writ Petition, shall stand closed.

**Sd/- M RAMESH BABU**  
**DEPUTY REGISTRAR**

**//TRUE COPY//**

**SECTION OFFICER**

**To,**

1. The Secretary to Govt., Labour, Employment Training and Factories (Labour.II) Department, State of Andhra Pradesh, A.P. Secretariat, Velagapudi, Amaravati, Guntur.
2. The Chair Person cum Presiding Officer, Industrial Tribunal cum Labour Court, Anantapuramu, Anantapuramu District.
3. One CC to Sri K. Raji Reddy, Advocate [OPUC]
4. One CC to Sri M. V. Pratap Reddy, Advocate [OPUC]
5. Two CCs to GP for Labour, High Court of Andhra Pradesh. [OUT]
6. Three CD Copies.

ssb

**HIGH COURT**

**DATED:30/08/2024**

**ORDER**

**WP.No.27420 of 2015**



**PARTLY ALLOWING THE W.P. WITHOUT COSTS**