

(2014) 01 KAR CK 0022

In the Karnataka High Court

Case No : Writ Petition No. 6775 of 2012 (L-TER)

Deputy Conservator of Forests Social Forestry Division and
Range Forest Officer

APPELLANT

Vs

Mallesha

RESPONDENT

Date of Decision : 03-01-2014

Acts Referred:

Citation : (2014) 01 KAR CK 0022

Hon'ble Judges : Ram Mohan Reddy, J

Bench : Single Bench

Advocate : B.J. Somayaji, for the Appellant; P.N. Rajeswara, Advocate for C/R-1, for the Respondent

Final Decision : Allowed

Judgement

Ram Mohan Reddy, J.—This petition, though listed for hearing on interlocutory application, with the consent of learned Counsel for parties, is finally heard and disposed of by this order. The Deputy Conservator of Forest and the Range Forest Officer, State of Karnataka, aggrieved by the award dated 27.08.2011 in reference No. 23/2005, Annexure-C of the Presiding Officer, Labour Court, Mysore, directing reinstatement of the petitioner to the post of daily wager on nominal master role with 50% backwages from the date of petition, have preferred this writ petition.

2. Petitioners are the Officers of department of forest of the State of Karnataka. The Supreme Court in the case of State of Gujarat and Others Vs. Pratamsingh Narsinh Parmar, held that a Government department is not an industry. In addition, it was held that where there is a dispute that the Government department is not an industry, it is for the workman to establish by leading cogent evidence that the department is an industry.

3. In the instant case, petitioners, Officers of the forest department of the State of Karnataka, advanced the plea in the counter statement in reference No.

23/2005 before the Presiding Officer, Labour Court, Mysore, that forest department is not an industry falling within the definition of the said term under the Industrial Disputes Act, 1947. In the adjudication of the claim of respondent that he was a workman engaged in an industry, before the Labour Court, except for the workman's self serving statement that he was engaged in social forestry, examined an Officer of the forest department as WW-2 who testified to the effect that workman was engaged on daily basis in NMR of forest department in the forest located at a certain place in the State of Karnataka. In the absence of legal evidence to the effect that the forest department in which the petitioner is said to have worked as daily wager on nominal master role is an industry, so as to invoke the jurisdiction of the Labour Court under the Industrial Disputes Act, it would be pretentious to accept the submission of the learned Counsel for respondent that the forest department constituted an industry.

4. In the light of the authoritative pronouncement of the Apex Court in State of Gujarath's case supra, Labour Court did not have the jurisdiction to pass the award impugned and on that score alone deserves to be quashed. In the result, the petition is allowed. The award dated 27.08.2011 in reference No. 23/2005 is quashed, reserving liberty to the respondent to workout his remedy before an appropriate forum, in accordance with law.