
(2015) 02 KAR CK 0235
In the Karnataka High Court
Case No : Writ Petition No. 8725/2008 (L-TER)

Rupabai	Vs	APPELLANT
The Senior Assistant Director of Horticulture and Others		RESPONDENT

Date of Decision : 13-02-2015

Acts Referred:

Industrial Disputes Act, 1947 — Section 25-F

Citation : (2015) 02 KAR CK 0235

Hon'ble Judges : A.S. Bopanna, J.

Bench : Single Bench

Advocate : H.M. Dharigond, Advocate for R.B. Anneppanavar, for the Appellant;
Veena Hegde, HCGP, Advocates for the Respondent

Final Decision : Disposed off

Judgement

A.S. Bopanna, J.—The petitioner is before this Court assailing the award dated 27.07.2006 passed in Ref. No. 88/1999 impugned at Annexure-A to the petition.

2. The petitioner alleging illegal termination had raised a dispute which had been referred to the Labour Court, Bijapur, in Ref. No. 88/1999. The said dispute was clubbed along with five other cases and the Labour Court by a common award dated 27.07.2006 has disposed of the said references. While doing so, the Labour Court has granted the compensation in lieu of reinstatement in two references while the other references including that of the petitioner herein had been rejected. It is in that circumstance, the petitioner is before this Court.

3. The case of the petitioner was considered by the Labour Court while answering Point No. 4 which had been raised for consideration. The case of the petitioner was that she had worked as a daily wager in the respondent-management from 1975 onwards. It is her case that her services were terminated during August 1986 arbitrarily without following due process of law. It is in that view, the petitioner had contended that there is violation of the requirement under Section 25-F of the Industrial Disputes Act, 1947 and the petitioner is entitled for

reinstatement.

4. The respondents had filed their objection statement wherein the claim as put forth by the petitioner had been disputed. It was contended that she had never worked during the years 1975-76, 1976-77 and 1977-78 and it is only in the year 1978-79, she had worked on daily wage basis for about 33 days and thereafter in the subsequent years for less than 240 days. The maximum number of days that was indicated for the year 1984-85 is 111 days. Hence, it was contended that the petitioner is not entitled to the relief.

5. In that view, the Labour Court taking note of the evidence tendered by the respondents through MW1 and the documents produced by the respondent-management had taken note of the document at Ex. M5. From the said document it had been concluded that the petitioner had not indicated that she had worked more than 240 days during the year 1984-85. However, the Labour Court has thereafter held that she had worked more than 240 days i.e., 12 calendar months prior to her termination and therefore held Point No. 4 in affirmative. However, taking note of the fact that there was delay of about 13 years in raising the dispute as it was raised only in the year 1999, the relief had been denied.

6. It is no doubt true that when there is such long delay, the Labour Court could consider as to whether any relief is liable to be granted or not. Even in such circumstance, if reinstatement is not granted, the Court would have the discretion of granting compensation in lieu of reinstatement.

7. In fact, in the batch of cases insofar as Reference No. 34/1998 and 70/1999, though the Labour Court had found that the case as put forth could be accepted, the reinstatement had been denied and compensation of Rs. 15,000/- had been granted. In such circumstance, in the instant case also, certainly when there was delay of 13 years, the question of reinstatement would not arise.

8. However, taking note of the fact that the petitioner had rendered service intermittently as a daily wager over a period of time, it would be in the interest of justice, if the petitioner is also awarded compensation of Rs. 15,000/- which shall be paid by the respondents to the petitioner. The said amount shall be paid to the petitioner within eight weeks from the date on which a copy of this order is furnished by the petitioner to the respondents. If the amount is not paid within the time frame as indicated, the same would attract interest at 12% p.a. after the period of eight weeks.

In terms of the above, the petition stands disposed of.