

(2015) 11 KAR CK 0099

In the Karnataka High Court

Case No : Writ Appeal No. 200177/2015 (L-TER)

The Sericulture Extension Officer, Technical Service Centre
and Others

APPELLANT

Vs

Shivaraj and Others

RESPONDENT

Date of Decision : 26-11-2015

Acts Referred:

Industrial Disputes Act, 1947 — Section 25-F

Citation : (2015) 11 KAR CK 0099

Hon'ble Judges : A.S. Bopanna and G. Narendra, JJ.

Bench : Division Bench

Advocate : A. Syed Habeeb, AGA, for the Appellant; P. Vilaskumar, Advocate, for the Respondent

Final Decision : Disposed Off

Judgement

A.S. Bopanna, J.—The appeal is filed by the State claiming to be aggrieved by the order dated 04.04.2013 passed in W.P. No. 16116/2006 and the connected petitions wherein the learned Single Judge of this Court has upheld the award dated 18.02.2006 passed by the Labour Court, Kalaburgi. Since there is delay of 612 days in filing the appeal, the application seeking condonation of delay is filed. The learned counsel for the workmen has been notified and the learned counsel would oppose not only the condonation of delay, but the contentions which have been urged in the appeal on merits.

2. At the outset, we are required to notice as to whether the long delay of 612 days in filing the appeal has been satisfactorily explained to arrive at a conclusion that sufficient cause is made out to condone the delay. A perusal of the affidavit accompanying the application seeking condonation of long delay of 612 days in filing the appeal would indicate that the reasons assigned even in such case is the routine procedural administrative delay. It is no doubt true, in appropriate cases where we find that the reasons indicated are satisfactory, the Court would be justified in accepting such explanation.

3. In the instant facts, it is to be noticed that the learned Single Judge had disposed of the batch of petitions on 04.04.2013. Admittedly, the certified copy of the order had been received in the legal cell on 25.10.2013, but the delay of six months even at that stage is not explained. Taking note of the said dates, it is also necessary to notice at this stage itself that the writ appeal was filed thereafter only on 10.07.2015. The explanation for the long interregnum delay is only with regard to the papers being sent for approval from the higher officers and ultimately the approval being granted for filing the appeal. Even the said date as indicated in the affidavit is on 23.03.2015 and the papers had been sent back to the Horticultural Department on 24.03.2015 to file the appeal. It is thereafter the Litigation Conducting Officer has taken steps to appoint the learned Government Advocate. Even from the said date, as noticed, the appeal was filed only on 10.07.2015.

4. If that be the position, there is absolutely no justification in keeping the papers for such long period only for the administrative process to take a decision to file an appeal, more particularly in a circumstance where the rights of the workmen were involved and a decision one way or the other in accordance with law is to be taken. The learned Government Advocate while seeking that the condonation of delay be made by adopting a liberal approach has relied on a decision of the Hon"ble Supreme Court in the case of Collector, Land Acquisition, Anantnag and Another Vs. Mst. Katiji and Others, .

5. Having taken note of the said decision, there can be no dispute that in appropriate cases where valuable rights of the parties are involved, the Court would be entitled to condone the delay on terms. Even if the said aspect of the matter is kept in view, in the instant facts, in fact the balance of convenience to reject the request for condonation of delay would be in favour of the respondents as we have already taken note of the fact that the respondents are workmen who claim to have worked for long periods and were alleging illegal termination. Though the benefit of reinstatement had been granted by the Labour Court, they are made to agitate with regard to the same and the benefit was being denied to them and only when the workmen filed contempt petition complaining disobedience, the appeal was filed. Therefore, the said decision cannot be made applicable to the instant facts of the case.

6. Be that as it may, in view of the said contention, in order to find out as to whether there would be miscarriage of justice, we have also thought it fit to refer to the award dated 18.02.2006 passed by the Labour Court and also the order dated 04.04.2013 passed by the learned Single Judge which is impugned in this appeal. A perusal of the award of the Labour Court would disclose that the Labour Court on taking note of the evidence tendered by the appellants herein through M.W. 1 and in that light, taking note of the contentions that had been put forth, the period for which each of the workmen in respect of reference had worked is referred to and based on the evidence that was available on record has recorded a finding of fact that each of the workmen had worked for more than

240 days in a year. The Labour Court has also taken into consideration that when the contention of the management itself was that it was seasonal employment and the workmen had abandoned the services by themselves, the Labour Court had ultimately arrived at the conclusion that when they have proved that they have worked beyond 240 days and the termination was contrary to the provisions contained in Section 25-F of the Industrial Disputes Act, it is held they are entitled to reinstatement.

7. While referring to the finding as rendered by the Labour Court, the learned Single Judge has kept in view the decision of the Hon"ble Supreme Court and in that light has taken note of the fact that each of the workmen has worked for more than 10 years during the periods from 1987 to 1999. In that background, the exception as indicated in the case of Secretary, State of Karnataka and Others Vs. Umadevi and Others, was also kept in view and thereafter has approved the award passed by the Labour Court.

8. Needless to mention that when an award of the Labour Court is assailed in a writ petition, the examination of the correctness or otherwise of the award would be to the extent of finding out as to whether there is any perversity committed by the Labour Court. If that aspect of the matter is kept in view while examining the award of the Labour Court as well as the order passed by the learned Single Judge, we find that the Labour Court has referred to the evidence available on record and thereafter a conclusion has been reached. Therefore, we see no reason to condone the delay and entertain the appeal to interfere with either the order of the learned Single Judge or the award passed by the Labour Court.

In that view, the application seeking condonation of delay as well as the appeal stand disposed of.