

(2009) 12 KAR CK 0086
In the Karnataka High Court
Case No : Wri Petition No. 16363 of 2008

V.R. Bhojgowda

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 01-12-2009

Acts Referred:

Industrial Disputes Act, 1947 — Section 33 C (2)

Citation : (2010) 1 KarLJ 333

Hon'ble Judges : Ram Mohan Reddy, J

Bench : Single Bench

Advocate : S.B. Mukkannappa, for the Appellant; M.C. Nagashree, Government Advocate for Respondent-1 and M.R.C. Ravi, for Respondents-2 to 4, for the Respondent

Judgement

Ram Mohan Reddy, J.—The petitioner was successful in securing an award dated 14th December, 2000 in ID. Reference No. 52 of 1995, Annexure-A directing the respondent-Cauveri Neeravari Nigama Niyamitha to reinstate the I party workman to the original post i.e., temporary daily wages graduate assistant within two months from the date of publication of the award, disentitling the petitioner to backwages and consequential service benefits, since he was a daily wage employee. That order when challenged by the employer-respondent, suffered an interim order in W.P. No. 36944 of 2001 directing the employer to pay to the petitioner Rs. 1,000/- per month. The writ petition it is said was dismissed by order dated 11-4-2005.

2. The petitioner filed Application No. 4 of 2007 before the Labour Court, at Chickmagalur invoking Section 33-C(2) of the Industrial Disputes Act, 1947, for a direction to pay Rs. 1,48,228.57. The Labour Court having considered the award dated 14-12-2000 and keeping in mind the fact that the petitioner was a daily wager, held that the petitioner was not entitled to any sum of money, and accordingly by order dated 17th March, 2008, Annexure-G rejected the application. Hence this writ petition.

3. According to the learned Counsel for the petitioner, the difference in wages of Rs. 1,48,228.57 was for the period from 1-4-2001 to 31-9- 2005, during the pendency of W.P. No. 36944 of 2001 after deducting Rs. 1,000/- per month paid to the petitioner pursuant to the interim order. Elaborating on the said submission, learned Counsel contends that after excluding the amounts paid at the rate of Rs. 1,000/- per month during the pendency of the writ petition, the petitioner was entitled to daily wages at the rate of Rs. 1000/- per month from the year 2001 and at different rates for the years; 2002 to 2005 as set out in Annexure-E. Learned Counsel further contends that the Labour Court misread the award, while rejecting the application.

4. Per contra, Sri Ramachandran, learned Counsel for the respondent-Management contends that the petitioner was and even now is a daily wager, and the award of the Labour Court was to reinstate the petitioner as a daily wager. Accordingly to the learned Counsel, daily wagers are engaged as and when there is exigencies of work and since the petitioner was not engaged during the pendency of the writ petition, was disentitled to daily wages. In addition, it is contended that daily wages are paid only when the daily wager discharges duties and not otherwise. Learned Counsel seeks to support the order impugned as being well-merited, fully justified and not calling for interference.

5. Indisputably, the claim for difference of wage is for the period during the pendency of writ petition, calling in question the award of the Labour Court directing reinstatement as a daily wager without backwages or consequential benefits. If that is so, then the question for decision-making before the Labour Court was; whether a daily wager is entitled to wages without being engaged and without discharging duties?

6. The interim order of stay in W.P. No. 36944 of 2001, concededly, was stay of the award, subject to payment of Rs. 1,000/- per month from October 2001 till the disposal of the writ petition, to the workman. Therefore, the petitioner when not engaged as a daily wager by the employer during the pendency of the writ petition, is not entitled to any wages.

7. Even otherwise, it is not possible to perceive that the petitioner would have been engaged on every day after the award became enforceable, so as to entitle the petitioner to daily wages. The interim order of stay in the writ petition took care of the monthly payment of Rs. 1,000/- although the petitioner was a daily wager. An examination of the order of the Labour Court, does not disclose any legal infirmity, calling for the interference.

8. In my opinion, no exception can be taken to the reasons assigned and the conclusion arrived at by the Labour Court. The Labour Court was fully justified in dismissing the application by the order impugned.

Petition is accordingly rejected.