

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY
AND
THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

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WRIT APPEAL No.2072 OF 2005

JUDGMENT: *(Per Hon'ble Sri Justice L. Narasimha Reddy)*

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This writ appeal is filed against the order, dated 08.08.2005, passed by the learned Single Judge in W.P.No.28426 of 1998, which, in turn, was filed by the appellant itself.

The appellant is a Small Scale Industrial Unit functioning at Hyderabad. The 2nd respondent joined its service in the year 1973. In the year 1995, the Industry was closed for want of business. There were about 10 employees. It offered certain packages for its employees and, all of them, except the 2nd respondent, accepted the package and left the service of the organization.

The 2nd respondent filed I.D.No.7 of 1997 in the Labour Court-I, Hyderabad, claiming the relief of reinstatement into service with benefit of continuity and full backwages. She referred to the closure of the unit and the subsequent settlement arrived at between the appellant, on the one hand, and Karmika Sangham, on the other hand, and her non-acceptance of the package. It was pleaded that her retrenchment from service is contrary to Section 25-F of the Industrial Disputes Act (for short 'the Act'). The appellant opposed the I.D by stating that there was no retrenchment as such, but the Industry itself was closed for want of work. It was also pleaded that an offer was made to all the employees and it is only the 2nd respondent, who did not accept the same.

Through its award, dated 16.07.1998, the Labour Court allowed the I.D and directed reinstatement of the 2nd respondent into service with all benefits, such as backwages and continuity of service. The

appellant filed W.P.No.28426 of 1998 challenging the same. The learned Single Judge dismissed the writ petition by observing that the award passed by the Labour Court does not suffer from any illegalities or infirmities.

Heard learned counsel for the appellant. There was no representation for the 2nd respondent, though the matter was adjourned twice for that purpose.

The very plea of the 2nd respondent before the Labour Court was that she was retrenched from service in contravention of Section 25-F of the Act. Every discontinuation, by itself does not attract Section 25-F of the Act. It is only when an Industry continues to function and the concerned employee was singled out in the context of entrustment of work, that the retrenchment can be said to have taken place. It is not in dispute that the entire working of the appellant stopped for want of work and not a single employee was entrusted with the work. Further, the appellant did not leave its employees in the lurch even in its hard days.

It offered packages, which are much more than the benefit which an employee is extended in the event of retrenchment under Section 25-F of the Act. The Labour Court did not take this aspect into account and simply proceeded with the estimation that there was retrenchment of the 2nd respondent contrary to Section 25-F of the Act.

We, therefore, allow the writ appeal and set aside the order passed by the learned Single Judge. Consequently, W.P.No.28426 of 1998 is allowed and the award, dated 29.08.1998, in I.D.No.7 of 1997 is set aside. It is, however, directed that if the 2nd respondent is willing to receive, the appellant shall extend the benefit of package, which it has offered to its other employees, by including the interest at 6% per annum.

The miscellaneous petition filed in the Writ Appeal shall stand disposed of.

L. NARASIMHA REDDY, J.

CHALLA KODANDA RAM, J.

08.08.2014

KH/vv