

J'NON-REPORTABLE
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 9793/2010
GENERAL MANAGER, APGENCO APPELLANT(S)
VERSUS

P. RAM BABU & ORS. RESPONDENT(S)

J U D G M E N T

KURIAN, J.

The State of Andhra Pradesh referred the following dispute for adjudication to the Industrial Tribunal-cum-Labour Court, Warangal:-

â- Whether the petitioners are working as contract labourers in the prohibited categories of employment as per G.O.Ms. No.41, dated 23.9.1996, followed by B.P.Ms. No.37 dated 18.05.1997 and whether they are entitled for absorption as per the scheme framed by the Board under B.P. No.272, dated 31.12.1997 for absorption of contract labour working in prohibited categories of employment?â- \235

2. The said Industrial Dispute No.105/2002 was adjudicated by the Tribunal and after elaborately discussing the evidence, on 09.09.2005, the Tribunal passed an Award holding that the respondent-workmen have been working in the prohibited categories of employment and that in terms of the guidelines framed by the appellant they are entitled for absorption. The Award was challenged by the appellant before the High Court of Andhra Pradesh in Writ Petition No.9057 of 2006.

3. Though, it was a limited jurisdiction, the learned Single Judge in the High Court elaborately

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considered the evidence before the Tribunal and held that the workmen were entitled for absorption in terms of Government order dated 23.9.1996. Aggrieved the appellant is before this Court.

4. It was strenuously contended that even if the Committee recommended the absorption, the appellant was still entitled to look into the eligibility and the mere recommendation will not entitle the workmen for automatic absorption. We have no quarrel with the proposition, but the question is, whether there was a recommendation and why the recommendation was not considered. Before the Tribunal, despite the couple of opportunities given, the recommendation was not produced and the same was withheld from the Tribunal. Despite that, the Tribunal considered the evidence available elaborately and came to a specific finding that the workmen were sent on deputation on the cut off date by the Management only to deny the benefit of absorption.

5. Thus, in our view, the Division Bench has rightly held that â- Sthe finding recorded by the learned Presiding Officer of the Labour Court which has been approved by the learned Single Judge that the respondents were sent on deputation on 23.09.1996 with a view to scuttle their claim for absorption is a pure finding of fact. The same is based on a comprehensive appreciation of evidence produced by the parties.â- \235

6. We do not find any perversity in the finding. The appeal is devoid of merits and is, accordingly, dismissed.

7. Since the appeal has been dismissed, it goes without saying that the appellant will take the steps to implement the Award in its true spirit, without any further delay.

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8. Pending application(s), if any, shall stand disposed of.

9. There shall be no orders as to costs.

.....J.

[KURIAN JOSEPH]

.....J.

[A.M. KHANWILKAR]

NEW DELHI;

JANUARY 31, 2017.

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ITEM NO.107

COURT NO.7

SECTION XV

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL NO. 9793/2010

GENERAL MANAGER, APGENCO

APPELLANT(S)

VERSUS

P.RAM BABU & ORS.

RESPONDENT(S)

(with office report)

Date : 31/01/2017 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE KURIAN JOSEPH

HON'BLE MR. JUSTICE A.M. KHANWILKAR

For Appellant(s) Mr. Shishir Pinaki,Adv.

Mr. Amit K. Nain,Adv.

For Mr. D. Mahesh Babu,AOR

For Respondent(s) Mr. V. Shekhar,Sr.Adv.

Mr. Manoj Saxena,Adv.

Mr. Ram Krishna,Adv.

Mr. Gudipati G. Kashyap,Adv.

For Dr. Kailash Chand,AOR

Ms. G. Madhavi,AOR

UPON hearing the counsel the Court made the following

O R D E R

The appeal is dismissed in terms of the signed judgment.

(NARENDRA PRASAD)

(RENU DIWAN)

COURT MASTER ASSISTANT REGISTRAR

(Signed 'Non-Reportable' Judgment is placed on the file)

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