

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.No.4848 OF 2002

ORDER

The case of the petitioner is that the 2nd respondent left his employment in June, 1999 and filed P.G.Application No.22 of 1999 on 25.10.1999, as per the provisions of Gratuity Act, 1972 claiming gratuity stating that he has worked in petitioner's organisation.

The petitioner had small shop in the year 1991 and due to losses he closed the said shop in the year 1996 and thereafter he started new workshop by name "Sri Venkata Ramana Mechanical and Engineering Works by employing less than 8 workers. While so, the 2nd respondent left the organisation on 10.06.1999 and filed an application No.22 of 1999 on 25.10.1999, with a delay of 1 ½ month, which is contrary to the provisions of Gratuity Act, 1972. But the 1st respondent and Assistant Commissioner of Labour-II without considering said aspect and other pleas raised by the petitioner, passed the order dated 26.12.2001. Aggrieved by the same, the present writ petition is filed seeking to set aside the said order.

The petitioner also filed counter stating that he has employed six workers including the 2nd respondent and that he has filed Register of Wages and also Attendance Register to show that the authorities have no jurisdiction to entertain the gratuity application as the 2nd respondent is not governed by payment of Gratuity Act, 1972. But the Assistant Commissioner of Labour-II without considering the said aspect and passed an order on 23.05.2000 ordering for payment of amounts towards gratuity in favour of the 2nd respondent. Against the same, though the petitioner filed appeal in Case No.PGA/2/2001 before the appellate authority, the order of the Assistant Commissioner of Labour-II was confirmed by order dated 26.12.2001.

A perusal of the order passed by the Controlling authority and the Assistant Commissioner of Labour on 23.05.2000 goes to show that the

petitioner himself admitted to pay some amounts towards gratuity in favour of the 2nd respondent and the authorities also ordered the petitioner to pay amount of Rs.11,168/- and Rs.9,928/- to the 2nd respondent. The appellate authority also considered the pleas of the petitioner and observed that the petitioner has not filed any proof to show he has employed less than 10 workers. It has observed that the 2nd respondent has submitted resignation letter dated 09.06.1999 and the same was rejected by the petitioner on the ground that sufficient notice was not given.

Since both the authorities have considered the pleas of the petitioner and passed an order, this Court is not inclined to reappreciate the evidence by exercising power under 226 of Constitution of India and petitioner has also not pointed out any error warranting interference of this Court with the orders passed by the appellate authority.

In view of the above, I do not see any merit in the writ petitioner. Accordingly, the writ petition is dismissed. No costs. As a sequel, miscellaneous petitions pending if any, shall stand closed.

A.RAJASHEKER REDDY,J

Date: 16.07.2015

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