

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO
Writ Petition Nos. 17025, 17276, 17279, 17283, 17298 and 17311 of
2016

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Common Order:

All these Writ Petitions are being disposed of by this common order as they relate to the same point.

2. It is the case of the petitioners that they entered into a contract with the third respondent for operating and maintaining e-seva centers of Visakhapatnam, Vizianagaram and Srikakulam Districts with effect from 01.07.2010, Krishna, West Godavari and East Godavari Districts with effect from 01.10.2010 and Guntur from 01.03.2012. While so, the Assistant Labour Officer and Inspector under the Payment of Wages Act made an inspection on 09.05.2012 of the e-seva Centers and filed applications before the Authority under the Payment of Wages Act and the Joint Commissioner of Labour, first respondent claiming difference of wages in respect of workmen for respective periods. The applications were registered. The petitioners filed counters stating that the applications are not maintainable since the applicants have not disclosed any annexure or statement of facts to the applications substantiating the facts and circumstances to the entitlement of the wages. The Assistant Labour Officer was examined as PW.1 and the representative of the petitioners was examined on behalf of the second respondent. The applications in PW Case Nos.11, 12, 13, 15, 16 and 17 of 2012 were clubbed together and common evidence was recorded.

3. It is the further case of the petitioners that they filed an affidavit on 27.04.2015 for reopening of the cases in order to produce certain documents and though the said applications were numbered when no orders were passed, the present Writ Petitions were filed on the ground that without considering the said applications a common order was passed on 31.03.2016 allowing the claims.

4. Learned counsel for the petitioners submitted that the procedure was not followed while passing the said order and, in those circumstances, this Court, while directing the respondents not to take any coercive steps, called for the records. The records revealed that after giving opportunity to both the parties a common order was passed on 31.03.2016, however, the present applications were filed on 27.04.2015 seeking to reopen the enquiry. It is stated that the said applications were filed under Section 18 read with Section 15 of the Payment of Wages Act, 1936 (for short 'the Act').

5. Section 18 of the Act deals with the powers of the authorities appointed under Section 15 and it reads as follows.

“18. Powers of authorities appointed under Section

15:-Every authority appointed under sub-section (1) of Section 15 shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents, and every such authority shall be deemed to be a Civil Court for all the purposes of Section 195 and of Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974)”

6. A perusal of the above provision makes it clear that the authority was given the powers of a civil court, for the purpose of taking evidence, enforcing the attendance of the witnesses and compelling the production of documents. The present applications were filed before the disposal of the cases and the authority should have considered and disposed of the applications before passing the final order. Since the applications are pending and the final orders were passed, this court is constrained to set aside the final common order dated 31.03.2016 and remand the matters to the 1st respondent for consideration of the applications of the petitioners dated 27.04.2015 and passing appropriate orders thereon in accordance with law.

7. The Writ Petitions are, accordingly, allowed at the admission stage. There shall be no order as to costs.

8. As a sequel thereto, the miscellaneous petitions, if any, pending in these Writ Petitions shall stand closed.

A.

RAMALINGESWARA RAO, J

Date: 14th July 2016

Note:

Registry is directed to send the
Original records to the first respondent
Forthwith
(B/O)
Nsr