

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

WRIT PETITION No.13575 OF 2004

ORDER:

This writ petition is filed questioning the correctness of the settlement dated 04.01.2003 made in proceedings No.A/43/2002 by the Assistant Commissioner of Labour, Hyderabad-I.

Heard both sides.

In pursuance of the settlement arrived at, the management agreed to the following terms:

1. To pay 30 days retrenchment compensation to seven employees whose names mentioned in schedule;
2. To pay gratuity as per law;
3. To pay one month notice pay in lieu of notice;
4. To pay salaries up to November 2002;
5. To pay *pro rata* of Bonus to all the employees;
6. To pay 50% of the total amount immediately and the remaining amount during the month of April by way of advanced dated cheques which will be kept in the safe custody of the Assistant Commissioner of Labour, Hyderabad-I

On behalf of Union, it is agreed with the following terms;

1. To accept the offer made by management;
2. They have further accepted to relinquish their rights for re-employment;
3. They have also agreed not to rise any dispute over any matter in any court or before any forum of quasi judicial authority or before any conciliation officer against the above management;
4. The workers and union also agree to drop all other demands;

A schedule was appended to the said settlement. Amounts were determined to be payable to 7 of the employees. Questioning the correctness of the amounts determined, the present writ petition is filed.

During pendency of the writ petition, the matter has been amicably settled and the amount that is due and payable to the employees has been determined and agreed upon by both the parties, and accordingly the petitioner has placed two Xerox copies of demand drafts bearing No.798203, dated 21.01.2016 for an amount of Rs.1,00,403/- and another demand draft bearing No.798259, dated 05.02.2016 for an amount of Rs.30,000/- and the petitioner seeks permission to deposit the said two original demand drafts before the Assistant Commissioner of Labour, Hyderabad-I within one week.

In view of the above the writ petition is liable to be disposed of.

However, in view of the non-compliance of the settlement, the Assistant Commissioner of Labour has launched criminal prosecution under section 34 of the Industrial Disputes Act, 1947, vide STC No.437/2005 (old STC.No.39/2004) on the file of the IX Metropolitan Magistrate, Kukatpalli.

It is submitted by the learned counsel appearing for the management that since the issue has been settled amicably and has been complied with during the pendency of the writ petition, continuing the criminal prosecution cannot be countenanced. In that view of the matter, the learned counsel submits that the Assistant Commissioner of Labour can be directed to withdraw the said STC.437/2005 in view of the compliance of the settlement to the satisfaction of the Union with which the settlement was arrived at.

Keeping in view the above submission, the Writ Petition is disposed of. The petitioner is directed to deposit the original demand drafts, as stated supra, with the Assistant Commissioner of Labour, within one week from today, and on such deposit, the 1st respondent-Assistant Commissioner of Labour is directed to disburse the same to the employees, in accordance with their eligibility together with the accrued interest on the deposits made by the management proportionately. The 1st respondent/Assistant Commissioner of

Labour is further directed to file appropriate application before the concerned Court to withdraw STC No.437/2005 in view of the developments and compliance with the settlement arrived at between the management and the Union, and on filing such application, the concerned learned Magistrate may dispose of the same, in accordance with law. In the circumstances, there shall be no order as to costs.

Pending miscellaneous applications, if any, shall stand closed in consequence.

M.S.K.JAISWAL,J

Date: 11.02.2016

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