

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 2175 of 2013

Order:

The short point involved in the present Writ Petition is with regard to maintainability of SE No.13 of 2012 filed by the third respondent before the second respondent.

2. The third respondent filed the said application before the second respondent claiming that he was initially appointed as an Assistant in the Legal Department on 20.06.1989 and his services were confirmed by letter dated 18.12.1989 with effect from 12.12.1989. He was promoted as Senior Assistant in the Legal Department in the year 1992 and as an Officer in the year 1995. He was later on promoted as Senior Officer with Grade IX Category on 17.01.2002 and as Assistant Manager in Grade X vide letter dated 22.07.2005. He claimed an amount of Rs.2,45,00,000/- towards compensation for the illegal termination effected on 08.06.2012 and received by the applicant on 18.06.2012. When the second respondent issued a notice to the petitioners with regard to above case asking the petitioners to appear on 13.12.2012, the present Writ Petition is filed on the ground that the dispute does not fall within the jurisdiction of the second respondent as it comes under Section 73(1)(a) of the Andhra Pradesh Shops and Establishments Act, 1988 (for short 'the Act') and the provisions of the Act are not applicable.

3. This Court, by an order dated 29.01.2013, granted interim stay of the proceedings and, seeking vacation of the same WVMP No.3424 of 2014 was filed by the third respondent.

4. Section 73(1)(a) of the Act reads as follows.

“73. Exemption:- (1) Nothing in this Act shall apply to-
 (a) employees in any establishment in a position of management and having control over the affairs of the establishment, whose average monthly wages exceed sixteen hundred rupees;”

5. Since it requires interpretation on the basis of the facts, this Court feels that it is proper for the parties to go before the second respondent for a decision on the matter before examining whether such decision is in accordance with law or not instead of taking up that responsibility by this Court in exercise of power under Article 226 of the Constitution of India.

6. In view of the same, without expressing any view on the merits of the case, the second respondent is directed to consider the issue with regard to maintainability of the application filed by the third respondent on filing a counter by the petitioners as a preliminary issue. The petitioners are given four weeks time for filing counter and the second respondent shall decide the preliminary issue with regard to maintainability of the application filed by the third respondent within a period of twelve (12) weeks thereafter.

7. The Writ Petition is, accordingly, disposed of. There shall be no order as to costs.

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

A. RAMALINGESWARA RAO, J

Date: 12.09.2016
 Nsr