

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No. 5652 of 2011

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Date: 03.08.2016

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Between:

T.Umamaheswara Rao, s/o. Seetharama Rao,
Aged 40 years, Un-employee, R/o. Tiruvuru,
Krishna District.

.....Petitioner

and

The Mandal Development Officer,
Tiruvuru Mandal, Krishna district and
two others.

....Respondents

The Court made the following:

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ORDER:

According to the petitioner, he was engaged for the first time on 14.07.1987 as Attender in the Office of the Mandal Development Officer, Tiruvuru Mandal, Krishna District. He was earlier terminated from services in the year 1993 by order dated 20.12.1993. His services were terminated retrospectively w.e.f. 04.12.1993. Challenging the order of termination, industrial dispute was raised. The claim of the petitioner was registered as I.D.No.262 of 1997 on the file of Labour Court, Guntur. On detailed consideration of the dispute, Labour Court passed award on 21st May, 2004. Labour Court held that termination of the petitioner as illegal. However, instead of directing the reinstatement, Labour Court awarded compensation. Labour Court determined the compensation by calculating the wage earned by the petitioner as Rs.12/- per day in the year 1987 and Rs.20/- per day later and accordingly, Labour Court held that petitioner is entitled to Rs.2,400/-. Challenging the said award, this writ petition is filed.

2. Heard Sri A.Rajendra Babu, learned counsel for petitioner, Sri Ravi Cheemalapati, learned counsel for respondents 1 and 2 and learned Government Pleader for Labour (AP) for respondent no.3.

3. Learned counsel for petitioner submits that once the order of retrenchment is held illegal, petitioner is entitled to reinstatement into service. Petitioner has raised industrial dispute soon after the termination of the services. Merely because of the delay in disposal of the industrial dispute, Labour Court erred in not granting the order of

reinstatement. He further submits that even assuming that Labour Court has come to correct conclusion on the issue of reinstatement, the amount of compensation determined is inadequate and calculation made for determination of the said compensation is also not valid. The amount of compensation determined by the Labour Court is contrary to the principle laid down by the Supreme Court in the case of **Bharat Sanchar Nigam Limited v. Bhurumal**^[1], **Hari Nandan Prasad and another v. Employer I/R to Management of Food Corporation of India and another**^[2] and **BSNL v. Man Singh**^[3].

4. Learned standing counsel contend that writ petition is not maintainable and is liable to be dismissed on the ground of inordinate delay and laches. Labour Court passed award on 21.05.2004, whereas the instant writ petition is instituted in the year 2011. No explanation was forthcoming as to why petitioner has come to this Court after seven years. He alternatively submits that finding recorded by the Labour Court in determining the compensation is in accordance with the procedure envisaged. Since, petitioner was drawing wage at Rs.12/- per day and subsequently Rs.20/- per day including the amount drawn by the petitioner, he has accepted the said compensation determined and it is not open to him to raise objection on account of the compensation determined at this distance of time. He, therefore, prays for dismissal of the writ petition.

5. It is not in dispute that petitioner was employee of the office of the 1st respondent and his services were terminated. The order of termination of services was declared illegal. The award passed in favour of the petitioner is not challenged by the respondents and it has become final. While holding the termination of petitioner was illegal, Labour Court instead of ordering for reinstatement, directed payment of compensation. The facts noticed above would also disclose that soon after the termination, petitioner raised industrial dispute. There was no

delay on the part of the petitioner in raising the dispute. There was delay in disposal of the dispute in the Labour Court. Merely because of delay in disposal of the claim, Labour Court could not have denied reinstatement of petitioner into service. However, petitioner has not come to this Court immediately after the award was passed by the Labour Court and the writ petition is instituted in the year 2011. Thus, though this Court is not convinced to the extent of not granting reinstatement, but granting only compensation having regard to inordinate delay in invoking jurisdiction of this Court and admittedly, petitioner was out of service since 1993, at this distance of time, no direction can be issued for reinstatement of petitioner into services. As rightly contended by the learned counsel for respondent, in exercise of equity jurisdiction, this Court cannot grant reinstatement of the petitioner at this distance of time.

6. This leaves the issue of determination of appropriate compensation. Once the Labour Court held the termination is illegal, Labour Court ought not to have looked at the amount of daily wage paid to the employee only. While determining amount of compensation in lieu of reinstatement, Labour Court ought to have seen that petitioner lost the job on account of illegal termination and had to bear the future consequences. Even the quantum arrived was not scientific. This Court is of the view that amount of compensation determined by the Labour Court is wholly inadequate.

7. The issue of payment of compensation in lieu of reinstatement was considered by the Supreme Court in

Man Singh. In the said case, workman rendered for little more than 240 days. Having regard to the same, Supreme Court awarded compensation of Rs.2 lakhs. The said decision was considered by the Supreme Court in **BSNL** and having regard to the fact that the workman therein worked for more than three years, Supreme Court awarded compensation of Rs.3 lakhs. The same principle is reiterated

i n **Hari Nandan Prasad**. In the instant case, the services of the petitioner were illegally terminated. According to the Labour Court, petitioner worked for a period of more than six years before his services were terminated. Petitioner was paid paltry amount of Rs.2,400/- as compensation. Though termination was illegal and reinstatement ought to have followed, Labour Court only awarded paltry sum. Petitioner is entitled to higher compensation commensurate with long service and future needs. At the same time, petitioner is also guilty of laches in invoking jurisdiction of this Court. Having regard to these facts, I am of the considered opinion that compensation

@ Rs.50,000/- per year of service rendered and for total service of six years six months, petitioner is entitled to consolidated amount of Rs.3,25,000/-. The award of the Labour Court is modified to that extent. The respondents are directed to pay the amount of Rs.3,25,000/- to the petitioner within a period of two months from the date of receipt of copy of this order. Any delay in payment of the amount quantified beyond the time granted by this Court, petitioner is entitled to the interest @ 6% per annum for the delayed payment.

8. Writ Petition is accordingly disposed. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

JUSTICE P.NAVEEN RAO

Date: 03.08.2016

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[\[1\]](#) (2014) 7 SCC 177

[\[2\]](#) (2014) 7 SCC 190

[\[3\]](#) (2012) 1 SCC 558