

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

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WRIT PETITION No.1527 of 2010

Between:

The A.P.S.F.D.C.Employees Union

....Petitioner

and

The Andhra Pradesh Forest Development Corporation,
Rep.by its Vice Chairman and Managing Director,
A.C.Guards, Hyderabad,
And others.

....Respondents

JUDGMENT PRONOUNCED ON : 24.02.2016

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO :

1. Whether Reporters of Local newspapers : Yes
may be allowed to see the Judgments?
2. Whether the copies of judgment may be : No
Marked to Law Reporters/Journals?
3. Whether Their Ladyship/Lordship wish to : No
see the fair copy of the Judgment?

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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ORDER:

The petitioner filed a claim under the Payment of Bonus Act for the payment of minimum bonus before the authority constituted under the said Act. The said claim was allowed on 07.05.2008. The petitioner moved the said authority for implementation of the order and the authority in turn moved the learned IV Additional Munsif Magistrate, Guntur, for appropriate action. The same was questioned before this Court by the respondents in Criminal Petition No.8811 of 2008 and this Court set aside the summons on the ground that there was no provision

empowering the Magistrate to initiate proceedings. However, liberty was given to the authority to avail such remedy as available under law. In those circumstances, the present Writ Petition was filed seeking implementation of the order in Case No.P.W – 1/08, dated 07.05.2008, passed by the Deputy Commissioner of Labour, Guntur.

A counter affidavit is filed by the respondents admitting filing of the petition by the petitioner, but it was stated that the Government issued G.O.Ms.No.366, Finance and Planning (Fin.Wing.W&M.I) Department, dated 29.10.1993, framing guidelines to the Public Sector Undertakings with regard to the payment of bonus. It was stated in the said Government Order that sick/loss making Public Sector Undertakings shall not sanction/pay bonus/ex-gratia until further orders. It was followed by further orders dated 26.09.1994 directing that the State Level Public Enterprises should obtain prior approval of the concerned Administrative Department. The Government again issued another Memo on 03.12.1994 and a Government Order on 27.10.1998 reiterating the said guidelines. Accordingly, the respondents sent proposals to the Government, EFS&T Department, dated 21.11.2002, 28.01.2003 and 03.09.2006, requesting for permission for payment of minimum bonus for five years claimed by the petitioner. The Government, vide its letter dated 28.06.2007, requested the EFS&T Department to accord necessary administrative sanction to APFDC for payment of bonus for the said five years. The Corporation itself requested the Government to accord necessary administrative sanction by its letter dated 16.07.2007 to release payment of bonus to the eligible employees. The Government issued orders on 21.07.2007 permitting the Corporation for payment of minimum bonus for the years from 2001 – 2002 to 2005 – 2006, subject to submitting proposals to Labour, Employment, Training and Factories Department as per Section 19(b) of the Payment of Bonus Act. However, the Government issued a letter on 28.08.2007 keeping the orders dated 21.07.2007 in abeyance.

Thereafter, some correspondence was ensued from the Corporation to the Government, and the Government Orders were stated to have been awaited. The financial implications on payment of bonus worked out to be Rs.9,03,314.91. However, the Deputy Commissioner of Labour, Guntur, disposed of Case No.P.W – 1/08 by directing the respondent Corporation to pay an amount of Rs.14,72,000/- by means of Demand Draft in favour of the Deputy Commissioner of Labour, Guntur. When action was taken by the learned IV Additional Munsif Magistrate, Guntur, consequent to filing of criminal case by the Assistant Labour Officer, Guntur, on behalf of the Joint Commissioner of Labour, Guntur, for recovery of the said amount, the same was challenged before this Court in Criminal Petition No.8811 of 2008, and the same was disposed of on 08.10.2009 allowing the same and setting aside the notice issued by the learned IV Additional Munsif Magistrate, Guntur. The second respondent in the said Criminal Petition was given liberty to avail such remedy as available under law.

The above facts clearly show that there is no dispute with regard to the order passed by the Deputy Commissioner of Labour, Guntur, in Case No.P.W – 1/08 on the petition filed by the petitioner. Though the said order was passed way back on 07.05.2008, for the last eight years no payment was made. The efforts of the petitioner seeking implementation of the said order through the process of Court failed.

In the circumstances, this Court feels it a fit case to issue a writ of mandamus directing the respondents to implement the order in Case No.P.W – 1/08, dated 07.05.2008, and pay the amount to the eligible workmen in accordance with law, within a period of six months from the date of receipt of a copy of this order.

The Writ Petition is, accordingly, allowed. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

24.02.2016
vs

(A.RAMALINGESWARA RAO, J)