

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Writ Appeal No.1042 of 2016

Judgment: (per V.Ramasubramanian, J.)

This writ appeal arises out of the refusal of the learned single Judge to vacate an interim order passed at the time of admitting a writ petition filed by the management challenging the order passed by the Labour Court in a petition under Section 33-C(2) of the Industrial Disputes Act, 1947.

2. Heard Mr. V.Sudhakar Reddy, learned counsel for the appellant and the learned Government Pleader for Irrigation and Command Area Development (Andhra Pradesh) for the 1st respondent.

3. The petitioner/workman raised an industrial dispute in I.D.No.48 of 1992, challenging his non-employment. The Labour Court passed an award directing the reinstatement without back wages. The said award was also confirmed by this Court.

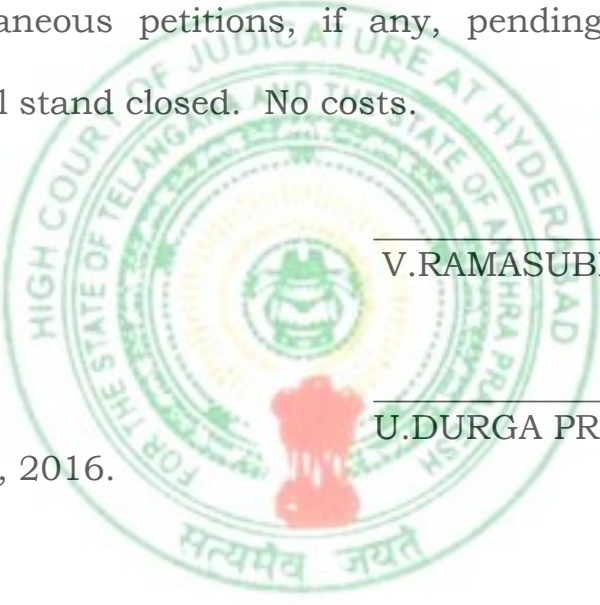
4. However, the award was not enforced from 30-9-1996 till 04-02-2009. Therefore claiming that for the period during which the award of reinstatement as confirmed by this Court was not implemented, he is entitled to wages, the petitioner/workman filed an application under Section 33-C(2) of the Industrial Disputes Act, 1947. The Labour Court calculated the amount payable at Rs.3,81,739=20 ps. As against the computation so made by the Labour Court by its order dated

23-4-2012, the management filed a writ petition. While admitting the writ petition, a learned single Judge recoded the factum of reinstatement and rejected the prayer for vacating the absolute stay on the ground that rest of the benefits can be worked out at the time of final hearing. Aggrieved by such a dismissal of his vacate stay petition, the workman is before us.

5. The primary contention of Mr. V.Sudhakar Reddy, learned counsel for the petitioner, is that under Section 25-HH, the petitioner is entitled to the wages, after the award of reinstatement has attained finality. The respondents/writ petitioners themselves did not have any dispute about the entitlement of the petitioner to the same. Therefore, his contention is that the respondents cannot be gifted with an unconditional stay order pending writ petition.

6. We have carefully considered the above submissions. The computation made by the Labour Court under Section 33(2) is under challenge in the writ petition. In the exercise of his discretion, the learned Judge granted an absolute stay. It is possible that if the case had gone before another learned Judge or even before one of us we might have passed a conditional order. Though there is a possibility for taking another view it cannot be a ground to interfere in an appeal under Clause 15 of the Letters Patent. Therefore, we do not wish to interfere with the order of the learned Judge. Since the petitioner is now in employment and also since the first

respondent is the State Government itself, the money payable to the petitioner, if it becomes due at the time of disposal of the writ appeal, is safely secured. It is relevant to note that the petitioner was actually employed in the Nominal Muster Rolls from 1972 to 1983 and it was his alleged termination that was set aside by the Labour Court in the first instance. Therefore, the writ appeal is dismissed. However, the writ petition is directed to be listed for final disposal before the appropriate bench, in the second week of November, 2016. The miscellaneous petitions, if any, pending in this writ petition shall stand closed. No costs.



V.RAMASUBRAMANIAN, J.

U.DURGA PRASAD RAO, J.

17th October, 2016.
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HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
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Writ Appeal No.1042 of 2016
(per VRS, J.)



17th October, 2016.
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