

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.37860 of 2012

ORDER:

This Writ Petition was filed by the contractor who executed certain works of the respondents, seeking consideration of his representation dated 23.08.2012.

2. The brief facts leading to filing of this writ petition are that the petitioner entered into a contract with the second and the third respondents for "Construction of Kalyani Reservoir Scheme – water supply to Tirupati town – supply, delivery & installation of mechanical equipment for gravity type filtration plant including civil work for a rated capacity of 1.7 MGD under L.S. agreement No.6 of 1974/75", on 11.10.1974. The works should have been completed by 31.10.1975, but due to the default on behalf of the department, the work could not be completed in time and it was completed only on 10.08.1977. The matter was referred to arbitration and an award was passed on 12.06.1999 for an amount of Rs.11,24,259/- along with interest from 13.12.1979 at the rate of 18% per annum, which comes to Rs.38,63,961/-. The award was confirmed by decree and judgment dated 20.10.2003 passed in A.O.P.No.240 of 1999 on the file of the learned Principal Senior Civil Judge, Guntur. When the respondents 3 and 4 filed C.R.P.No.387 of 2004, the petitioner filed C.R.P.No.2714 of 2005 and this Court passed orders on 11.10.2007 directing the parties to settle the matter amicably within a period of three months. Accordingly, the petitioner made a claim on 21.11.2007 and the second respondent issued G.O.Ms.No.110 dated 05.03.2010 for a

sum of Rs.71,40,467/-. The second respondent paid an amount of Rs.56,59,992/- on 24.04.2010. It is the case of the petitioner that the second respondent considered the claim of the department in C.R.P.No.387 of 2004, but did not consider the claim in C.R.P.No.2714 of 2005. The petitioner made a representation to the second respondent on 10.11.2011 and the second respondent issued reply dated 26.07.2012 stating that the amount sanctioned disposes of both the CRPs, as in the meeting held on 05.01.2010, the same was accepted. Since his claim was not considered, the petitioner submitted another representation on 23.08.2012 and when the same was not considered, the present writ petition was filed.

3. A counter affidavit was filed by the respondents stating that the second respondent already replied by the letters dated 30.03.2011, 26.07.2012 and 04.02.2013 stating that the amount already finalised was with mutual consent of parties during the conciliation meeting held on 05.01.2010 and it became final.

4. In view of the categorical statement made by the respondents in their reply, the grievance of the petitioner that his representation dated 23.08.2012 was not answered does not survive. Though the petitioner filed WPMP No.6515 of 2015 to amend the writ petition by incorporating the challenge to the letter dated 04.02.2013, the same cannot be ordered in view of answering the prayer sought for by the petitioner in the letter dated 04.02.2013. However, it is left open to the petitioner to take appropriate steps for challenging the said letter in separate proceedings instead of by way of amendment in the writ petition.

5. The writ petition is, accordingly, closed. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

A. RAMALINGESWARA RAO, J

01st November, 2016
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