

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE G.SHYAM PRASAD

W.A.No. 433 OF 2011

DATED 30TH AUGUST, 2016

Between:

M/s. Carzonrent (India) Private Limited,
Formerly known as M/s. CIPL Easy Transport Solutions Private Limited,
Rep. by its Deputy General Manager
Sri M.Shajid Rana,
Plot No. 80, Ayyappa Society,
Madhapur, Hyderabad – 500081

... Appellant

AND

The Joint Commissioner of Labour under
Payment of Wages Act,
R.R.Zone, Anjaiah Bhavan,
R.T.C. X Roads, Hyderabad, and others

... Respondents

Counsel for the appellant : Sri K.V.Bhanu Prasad

Counsel for respondent Nos. 1 & 6 : G.P. for Labour (T.S.)

Counsel for respondent Nos. 2 to 5 : Sri S.Ashok Anand Kumar

THE COURT MADE THE FOLLOWING

JUDGMENT: *(per Hon'ble Sri Justice C.V.Nagarjuna Reddy)*

Feeling aggrieved by order dated 17-06-2011 in W.P.No. 16476 of 2011, the petitioner in the Writ Petition filed this Writ Appeal. On being approached by respondent Nos. 2 to 5 under the Payment of Wages Act, 1936 (for short, 'the Act'), respondent No. 1 has passed order dated 12-05-2011 allowing P.W. Case No. 1 of 2008 and directing the appellant to pay arrears of wages of Rs. 2.79 lakhs along with three times penalty. The appellant has filed the aforementioned Writ Petition questioning the said order without availing the remedy of appeal under Section 15 of the Act. A learned single judge has dismissed the Writ Petition on the ground of availability of alternative remedy to the appellant.

2. Sri K.V.Bhanu Prasad, learned counsel for the appellant, submitted that when there is no employer – employee relationship between the appellant on the one side and respondent Nos. 2 to 5 on the other side, respondent No. 1 lacks jurisdiction to entertain the case and pass order directing payment of wages in favour of respondent Nos. 2 to 5.

3. We have carefully examined this submission and we do not find any merit therein. Undoubtedly, respondent No. 1 is the prescribed authority under the Act to determine the liability of the employers for payment of wages to the employees. Therefore, it cannot be said that respondent No. 1 suffers from inherent lack of jurisdiction to pass the order impugned in this Writ Petition. Even if the appellant has pleaded that there is no employer – employee relationship, that does not raise the issue of inherent lack of jurisdiction. If respondent No. 1 has not properly appreciated the plea of the appellant that respondent Nos. 2 to 5 are not the employees of the appellant, the said aspect very much falls within the scope of the appeal under Section 15 of the Act.

Therefore, the learned single judge has rightly relegated the appellant to the remedy of appeal.

4. Learned counsel for the appellant submitted that on the facts of the present case, the requirement of deposit of the wages with penalty, as a pre-condition of maintaining the appeal, causes serious hardship to the appellant. In the facts and circumstances of the case, we permit the appellant to deposit Rs.2.79 lakhs as a pre-condition for filing the appeal before the appellate authority. The appellant is also permitted to file the appeal within four weeks from today along with the aforementioned pre-deposit. Subject to the appellant complying with these conditions, the appellate authority shall entertain the appeal and dispose of the same on merits within three months from the date of receipt of the appeal. The *interim* order granted in the Writ Appeal shall continue till disposal of the appeal by the appellate authority.

5. The Writ Appeal, accordingly, stands disposed of.

6. As a sequel to disposal of the Writ Appeal, W.A.M.P.No. 1129 of 2011 shall stand closed as infructuous.

C.V.NAGARJUNA REDDY, J.

G.SHYAM PRASAD, J.

Date: 30-08-2016.

JSK