

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition Nos.12941, 29568 and 31165 of 2016

Common Order:

These three Writ petitions are being disposed of by this common order as they arise out of proceedings in M.P.No.5 of 2011 pending on the file of the Labour Court-III, Hyderabad.

2. The first respondent herein initially filed M.P.No.2 of 2010 claiming difference of minimum wages and other benefits as per BPMS No.98 under Section 33-C(2) of the Industrial Disputes Act. Later on, he withdrew the same and filed M.P.No.5 of 2011 claiming an amount of Rs.6,22,24,157/- being unpaid monetary benefits as per SSR and BMS 88 for the period from 1992 to 2003 in respect of 41 workers under Section 33-C(2) of the Industrial Disputes Act before the Labour Court-III, Hyderabad. The petitioner herein filed a counter in the said petition denying the relationship of master and servant and also stating that the first respondent Union came into existence only in the year 2005. The petitioner filed IA No.19 of 2013 in M.P. No.5 of 2011 seeking the Labour Court to decide the maintainability of the petition filed by the first respondent herein. The application was adjourned from time to time and on one occasion when the petitioner was not present it was dismissed for non-prosecution by an order dated 16.10.2015. Seeking restoration of the same, the petitioner filed I.A.No.57 of 2016 and the same was also dismissed on 24.03.2016 on the ground that the main case itself is coming up for adducing the evidence of the respondents and seeking restoration of I.A.No.19 of 2013 is nothing but delaying the matter. Challenging those two orders W.P.Nos.12941 and 29568 of 2016 were filed and no stay was granted by this Court. When the Labour Court rejected the

memo filed by the petitioner herein by another order dated 06.09.2016 in M.P.No.5 of 2011 the petitioner filed yet another W.P.No.31165 of 2016.

3. After hearing the learned counsel on both sides it became clear that the evidence on behalf of the petitioner in M.P.No.5 of 2011 was completed and the case is posted for evidence of the respondents. At that stage, the respondents pressed for disposal of I.A.No.19 of 2013 and the same was dismissed for non-prosecution. Thus, it is clear that the main case itself is at an advanced stage. In the circumstances, this Court sees no useful purpose would be served by directing the Labour Court to consider I.A.No.19 of 2013 independently before deciding the main case. Though the said application was dismissed, learned counsel for the first respondent herein fairly accepted for consideration of the issue raised therein along with the disposal of M.P.No.5 of 2011 and in view of the same the Labour Court is directed to consider the issue raised in I.A.No.19 of 2013 also along with the main case in spite of dismissal of the said I.A.No.19 of 2013.

4. In view of the same, all the three Writ Petitions are allowed and the matter is remanded to the Labour Court-III, Hyderabad for giving an opportunity to the petitioner herein for adducing evidence on its side and dispose of M.P.No.5 of 2011 along with the point raised in I.A.No.19 of 2013. The petitioner shall complete his evidence within a period of three months from the date of receipt of a copy of this order and the Labour Court shall dispose of M.P.No.5 of 2011 as aforesaid on or before 31.12.2016. There shall be no order as to costs.

5. As a sequel thereto, the miscellaneous petitions, if any, pending in these Writ Petitions shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 16.09.2016
Nsr

