

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.1646 of 2009

ORDER:

Heard learned counsel for the petitioner and learned counsel for respondent No.3.

This writ petition was filed challenging the orders, dated 04.09.2008 and 29.07.2006, passed by respondent Nos.1 and 2 respectively allowing the claim of respondent No.3 for his reinstatement.

Respondent No.3 was originally appointed as a Helper in 1987 by the petitioner in wholesale business of footwear. No order of appointment was given, but a letter of appointment was given only on 01.08.1996. He was being paid basic pay of Rs.750/- and Rs.527/- towards dearness allowance. It was his case that when he demanded for increase in the pay and allowances, the petitioner started ill-treating him. On 12.09.2003, the petitioner beat respondent No.3 and informed him not to attend the duties and ultimately intimated his termination from service on 18.09.2003. In those circumstances, respondent No.3 sought reinstatement by filing APSE Case No.8 of 2004 before respondent No.2-Assistant Commissioner of Labour, Vijayawada, Krishna District. Respondent No.2 by his order, dated 29.07.2006, on humanitarian grounds, directed the petitioner to reinstate

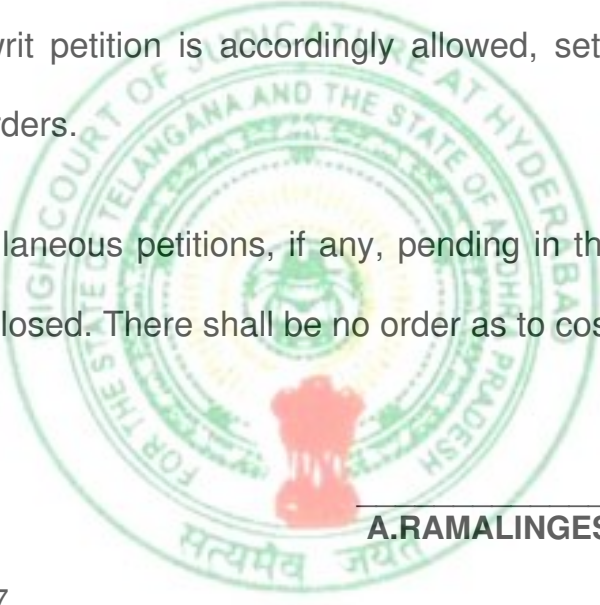
respondent No.3 with full back wages from September, 2003 duly adjusting the salary advance of Rs.13,517.65 ps. from and out of the back wages. While passing such an order, respondent No.2 observed that respondent No.3 failed to prove his case and no colleague was examined. It was further observed that there was no corroborative evidence to support the case of respondent No.3. It was also observed that no procedure was followed by the petitioner before taking action of dismissal of respondent No.3 from service. However, against the said order, the petitioner preferred an appeal before respondent No.1-Joint Commissioner of Labour, Zone-II Eluru, who in turn, passed order, dated 04.09.2008 confirming the order of respondent No.2, but holding that respondent No.3 was entitled to only half back wages from September, 2003 basing on the minimum wages payable as per G.O.Ms.No.80, dated 02.12.2000 duly deducting the salary advance as stated above. Challenging the orders of respondent Nos.1 and 2, the present writ petition was filed.

Learned counsel for the petitioner submits that though respondent No.2 framed a point with regard to the termination of services of respondent No.3 viz., whether respondent No.3 was terminated or absconded from duty, no finding was recorded by him with regard to the absence of respondent No.3 from duty, and without properly recording a finding on Point No.1, respondent No.2 erred in allowing the case filed by respondent No.3.

This Court carefully perused the orders passed by respondent Nos.1 and 2 and both of them did not record any finding. In view of the same, this Court is constrained to remand the matter to respondent No.2 for consideration of the case afresh, in accordance with law on the basis of the evidence already available on record and pass appropriate orders within a period of six months from the date of receipt of a copy of this order by giving due opportunity to the petitioner and respondent No.3.

The writ petition is accordingly allowed, setting aside the impugned orders.

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



A.RAMALINGESWARA RAO,J

Dt:19.07.2017

kdl

