

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 27681 of 2010

ORDER:

1) The present writ petition came to be filed by the Chelluru Primary Agricultural Cooperative Credit Society Limited, Chelluru Village, assailing the order passed in A.P.S.A.No.2/ 2010 dated 05.10.2010 on the file of the Authority appointed under Section 48 of the Andhra Pradesh Shops and Establishment Act and Joint Commissioner of Labour, Zone-II, Eluru, West Godavari, confirming the orders passed in A.P.S.E.No.16/ 2008 dated 30.01.2010 on the file of the Deputy Commissioner of Labour, Kakinada, East Godavari District, sofar as payment of full back wages and all other attendant benefits to the first respondent; and consequently to set aside the same.

2) The first respondent herein was appointed as a Clerk in the petitioner society, which was registered under the Andhra Pradesh Co-operative Societies Act, 1964, on a consolidated pay of Rs.225/ -. The said society was subsequently converted into Primary Agricultural Co-operative Credit Society. While things stood thus, the first respondent herein was terminated from service with effect from 23.08.2004, by the then Part Time Person incharge of the Society, as the petitioner society has not attained and complied with the norms fixed for the expenditure under establishment charges prescribed in Section 116 (c) of the Andhra Pradesh Cooperative Societies Act, 1964 and G.O.No.94 of 2004

dated 28.02.2004 issued by the Government of Andhra Pradesh. A Demand Draft along with the termination order was sent to the first respondent which was refused by him. An appeal came to be filed against the said order seeking reinstatement and backwages. Pending the said application, vacancies arose which led to Society inviting applications from the first respondent and other employees, whose services were terminated. The other employees, who were terminated, withdrew their cases but the first respondent has not preferred to join the service of the society as it was informed to him that would be working as a Hostel Warden, in an education institution, with a monthly salary of Rs.9,000/- . After hearing the parties, the Deputy Commissioner of Labour, Kakinada, allowed the application and directed the writ petitioner society to reinstate the first respondent with full back wages. Aggrieved by the same, an appeal came to be filed.

3) Smt. Bobba Vijaya Lakshmi, learned counsel for the petitioner submits that both the authorities under the Andhra Pradesh Shops and Establishment Act, 1988 (for short "the Act") have gravely erred in directing the reinstatement of the first respondent in as much as the provisions of the Act have no application, especially when the issue is governed by Section 116-C of the Andhra Pradesh Cooperative Societies Act. Placing reliance on certain precedents of this Court, she submits that both the authorities have failed to take into consideration Rule 36-B of the Andhra Pradesh Cooperative Societies Rules, 1964, which

mandates that the Managing Committee shall be liable for the excess expenditure.

4) Learned counsel appearing for the first respondent opposed the same.

5) The issue that falls for consideration is whether the provisions of the Act, especially, with regard to the safeguards that have been provided against the removal of an employee, has any relevance and applicability to the petitioner society, whose very existence is under the Andhra Pradesh Cooperative Societies Act and the Rules framed thereunder.

6) Admittedly, the first respondent was employed and worked from 1982 to 2004, later his services were terminated.

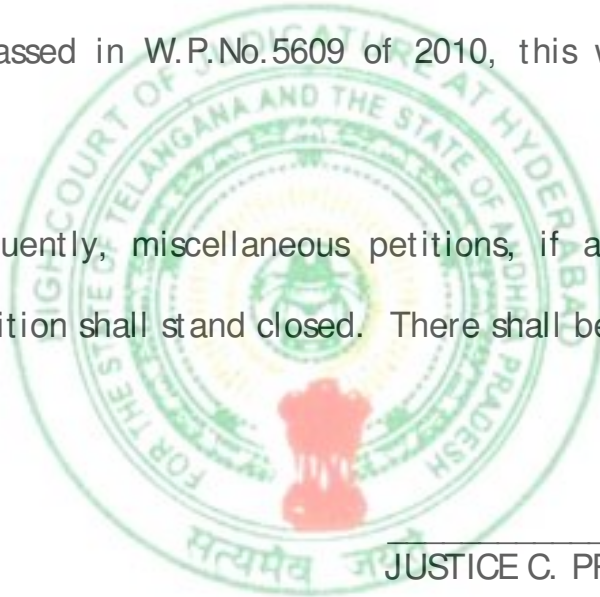
7) The issue identical to the case on hand came up for consideration in W.P.No.5609 of 2010. It was also a case where the first respondent therein was initially employed as Clerk in the year 1993 and in the year 1995, his services were terminated. By its judgment dated 30.12.2013, while dismissing the writ petition filed by the petitioner society, a learned Single Judge of this Court held as under:

“Once the Court, while exercising its powers of judicial review, is not inclined to interfere with the findings of the quasi-judicial authorities, especially, since those orders have not been suffering from any error apparent on the face of the record, any other consideration boarding on sympathy

would be antithetical to the notion of rule of law. As such, I regret my inability to persuade myself to interfere with the concurrent findings of the statutory authorities, whose orders do not suffer from any grave jurisdictional errors or perversity of finding.”

8) The fact that the issue in the said case is identical to the case on hand is not disputed by the learned counsel for the petitioner. Infact the counsel herein appeared for the petitioner society in the said case also. In that view of the matter, following the order passed in W.P.No.5609 of 2010, this writ petition is dismissed.

9) Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.



JUSTICE C. PRAVEEN KUMAR

18.04.2017
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