

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.Nos.2632 & 5689 OF 2001

COMMON ORDER

Heard learned Government Pleader for Agriculture & Co-operation appearing for the petitioner and Sri K.Jagadishwar Reddy, learned counsel appearing for the respondents-workmen.

Since the issue involved in both the writ petitions is one and the same, they are being disposed of by this common order.

Both the writ petitions are filed seeking to issue writ of Certiorari calling for the records relating to and connected with I.D.Nos.75 & 76 of 1996, dated 20.09.2000 respectively on the file of the 2nd respondent-Industrial Tribunal-cum-Labour Court, Godavari Khani and quash the same as arbitrary and illegal.

It is the case of the petitioner-Assistant Director of Sericulture that the respondents-workmen were engaged on daily wage basis; that they were not appointed through any agency and no appointment orders were issued; that the Labour Court ought not to have entertained the said IDs on the ground that the petitioner is the Assistant Director of Sericulture, as such, the workers employed in the Government Offices are not workmen, and that the Labour Court ought not

to have passed Awards directing reinstatement of the workmen with continuity of service and back wages. In support his case, the petitioner relied on a judgment of the Apex Court in *The Executive Engineer (State of Karnataka) vs K.Somasetty & Ors*¹.

On the other hand, it is the case of the respondents-workmen that they were engaged to work in the petitioner's organization on 1.8.1992 on daily wages basis; that initially they were engaged for 30 days and the said tenure was extended from time to time; that they had worked till March, 1996 and thereafter, they were not allowed to work and their services were disengaged orally; that they have raised IDs by filing a petition under Section 2-A (2) of the Industrial Disputes Act, 1947; and that they sought for reinstatement into service with continuity of service and back wages.

The petitioner-employer had filed counters before the Tribunal wherein it had admitted that it is an industry and argued the case on merits.

The Tribunal after considering the entire material and evidence, has passed detailed Awards and allowed the IDs on 20.09.2000 with a direction that the workmen be reinstated into service with back wages @ Rs.633/- per month each from the date of filing of petition i.e., 22.6.96 till the date of

¹ 1997(6) Supreme 13

reinstatement and also pay an amount of Rs.500/- each towards costs of the petition. Challenging the same, the present writ petitions are preferred by the petitioner-employer.

While admitting the writ petitions, this Court suspended the operation of the Awards passed by the Tribunal. But the petitioner has not complied with the statutory provisions of Section 17-B wages.

Be that as it may, the 1st respondent-workman in W.P.No.5689 of 2001 had died during the pendency of the writ petition on 9.9.2005 and his legal representatives were brought on record *vide* order dated 23.08.2017.

I have considered the rival submissions made by the learned counsel on either side.

Learned counsel appearing for the petitioner contends that in view of the judgment of the Supreme Court (1 *supra*), the Labour Court lacks jurisdiction to entertain the dispute in respect of Government employees and seeks interference of this Court to allow the writ petitions and set aside the Awards passed by the Labour Court. He further contends that in similar set of circumstances, the petitioner-Assistant Director of Sericulture, filed W.P.No.2026 of 2001, challenging the Award passed in I.D.No.193 of 1996, dated 26.7.2000 by the Industrial Tribunal-cum-Labour Court, Anantapur, this Court

set aside the same to the limited extent of payment of compensation of Rs.2,000/- therein, but confirmed the rest of the Award passed by the Labour Court.

I am afraid, I am not inclined to accept the said submissions because the workmen are not Government employees at the first instance and the petitioner-Management had filed counter-affidavits before the Labour Court admitting that it is an industry and now they cannot turn around and take altogether a different stand that the petitioner is a Government Organization and they are not amenable to the jurisdiction of Industrial Tribunal-cum-Labour Court.

From the material on record, it is obvious that the industrial dispute was pending upto, 2000. When the industrial dispute between the parties was pending upto 2000, the petitioner-employer had taken a stand that it is an industry, now it cannot take a plea that it is a Government organization.

Before the Labour Court, no plea was taken about the maintainability of ID by the workman on the other hand, a specific plea was taken that it is an industry. I do not find any ground to interfere with the Awards passed by the Labour Court. The Labour Court has rightly passed Awards after

appreciating the evidence and also material placed before it. In the absence of any grave irregularity in the Awards passed by the Labour Court, this Court is not inclined to set aside the Awards passed by it.

The Writ Petitions are devoid of merits and they are dismissed accordingly. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

12th December, 2017
rkk

JUSTICE ABHINAND KUMAR SHAVILI

