

The Hon'ble Sri Justice C.V.Nagarjuna Reddy
and
The Hon'ble Smt. Justice Kongara Vijaya Lakshmi

Writ Appeal No.1501 of 2017

Date: 11.10.2017

Between:

T.Malla Reddy

... Appellant

and

The Vice Chairman & Managing Director,
Telangana State Road Transport Corporation,
Bus Bhavan, RTC X Road, Hyderabad and 3 others

... Respondents

Counsel for the Appellant: Mr.Mohd.Ghousuddin

Counsel for respondent No.3: GP for Labour (TG)

Counsel for respondent Nos.1, 2 & 4: Sri N.Vasudeva Reddy,
SC for TSRTC

The Court made the following:



Judgment: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This Writ Appeal arises out of Common Order, dated 01.08.2017, to the extent it pertains to WP.No.7976 of 2016.

The order under Appeal is common in two other Writ Petitions *viz.*, WP.Nos.32152 of 2013 and 14863 of 2014. Both W.P.Nos.7976 of 2016 and 32152 of 2013 were filed by the appellant.

W.P.No.7976 of 2016 was filed for the following relief:

“to issue any writ, order or direction more particularly one in the nature of writ of mandamus, directing the respondents: i) to provide alternative job by implementing the Award from the date of publication as well as complying the directions issued in the writ petition No. 14863 of 2014, ii) to follow the 17-B direction for payment of full wages to workman pending proceedings in higher courts from the date of passing award.”

The relief claimed in WP.No.14863 of 2014 reads as under:

“to issue any writ, order or direction more particularly one in the nature of writ of mandamus directing 1st and 2nd respondents to comply the direction issued by the 3rd respondent herein vide Award passed in I.D. No. 41 of 2012 dated 03-04-2013 for providing alternative job by protecting the pay of the petitioner with continuity of service on par with the drivers' pay scale, which has been accepted by the respondents.”

In WPMP.No.10138 of 2016, filed in WP.No.7976 of 2016, the following relief was claimed:

“to direct the respondent for payment of salary's following 17-B.I.D.1947 from the date of publication of award in I.D.No. 41 of 2012 dated 03-04-2013 pending disposal of main Writ Petition.”

In WPMP.No.18406 of 2014, filed in WP.No.14863 of 2014 , the following relief was claimed:

“to direct the 1st and respondent to follow the 17B I.D. order and pay the salary every month till the date of providing alternative job with arrears from the date of Award passed.”

Except that there is slight variation in the form in which the reliefs have been claimed in both these Writ Petitions and the Miscellaneous Petitions filed therein, in substance, the reliefs claimed in both these proceedings instituted by the appellant are one and the same. The learned Judge partly allowed WP.No.14863 of 2014 with a direction to protect the appellant's pay and granted continuity of service till the date of the direction issued by the medical authorities as per the award of the Labour Court. As regards the relief of payment of wages under Section 17-B of the Industrial Disputes Act, 1947, and payment of salary till the date of providing alternative job with arrears from the date of the award, the learned Judge observed that the said provision makes it clear that an employee is entitled to payment of wages, if he had not been employed in any establishment during the said period and an affidavit has been filed by him in the Court to that effect, but the appellant has not raised any such plea; and that therefore, he is not

entitled to the wages under Section 17-B of the Act. Though the learned Counsel for the appellant has made earnest efforts to convince us that he has raised such a plea in the affidavits filed in support of both these Writ Petitions, we do not find any such averment. Having partly allowed WP.No.14863 of 2014, the learned Judge has dismissed WP.No.7976 of 2016 as the prayer therein is substantially same as that in WP.No.14863 of 2014.

We do not find any error in the order of the learned Single Judge, for, in the absence of the plea raised by the appellant that he was not gainfully employed, WP.No.7976 of 2016 was dismissed following the decision in WP.No.14863 of 2014. The appellant, for the reasons best known to him, has not filed a separate appeal against WP.No.14863 of 2014. Though we have pointed out this aspect to the learned Counsel for the appellant, he has argued that there is no necessity of filing a separate appeal. In our opinion, the appellant is not entitled to any relief in the present Writ Appeal without challenging the order in WP.No.14863 of 2014 as the reliefs claimed in both WP.No.14863 of 2014 and WP.No.7976 of 2016 were similar and the learned Judge has assigned reasons for denying the relief of payment of Section 17-B wages to the appellant in WP.No.14863 of 2014 and as a consequence, he has dismissed WP.No.7976 of 2016.

In the above view of the matter, the Writ Appeal is dismissed.

As a sequel to dismissal of the Writ Appeal, WAMP.No.2783 of 2017, filed by the appellant for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

(Kongara Vijaya Lakshmi, J)

Dt: 11th October, 2017
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