

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 17380 of 2001

ORDER:

This writ petition is filed, under Article 226 of the Constitution of India, by the petitioner institution, seeking a writ of certiorari to call for the record in I.D.No.205 of 1999 on the file of the Industrial Tribunal-cum-Labour Court, Visakhapatnam, the 2nd respondent herein, and quash the order dated 19.04.2001 passed therein.

2. Heard Sri J.S. Raju, learned standing counsel for A.P.Women's Cooperative Finance Corporation Limited, appearing for the petitioners, and Sri J. Sudheer, learned counsel for the 1st respondent.

3. According to the petitioner institution, it is a welfare institution and running training programmes in various trades and courses for the upliftment of needy women from weaker sections through Telugu Bala Mahila Pragathi Pranganams established during the year 1986-1987. The 1st respondent was offered the post of Driver at Balala Streela Sikshana Kendram, Visakhapatnam, on contract basis on a consolidated pay of Rs.1,300/- per month vide orders dated 26.10.1994. In pursuance of the same, the 1st respondent reported to duty on 04.11.1994 and continued from time to time with breaks now and then. Subsequently, he was allotted duties of the Attender in addition to the duties of the Driver vide orders dated 17.12.1994. While he was working as such, he had committed certain irregularities, like unauthorized absence from duty on

13.11.1996 and 14.11.1996 and insubordination. Therefore, he was issued several memos for his misbehaviour and unauthorized absence and his services were not extended beyond 25.04.1997 being a contract employee. Questioning the same, the 1st respondent filed I.D.No.205 of 1999 on the file of the Industrial Tribunal-cum-Labour Court, Visakhapatnam. The Labour Court passed an award dated 19.04.2001, directing the petitioner institution to reinstate the the 1st respondent into service with effect from 26.04.1997 with back wages. Challenging the same, the present writ petition is filed.

4. Learned standing counsel for the petitioner institution contends that the Labour Court erred in passing the award of reappointment of the 1st respondent with effect from 26.04.1997 with back wages, in view of the law position that no work no pay basis, that the 1st respondent cannot claim continuance of service, as he was a contract employee, that after conducting a detailed enquiry, the 1st respondent was removed from service, and that, therefore, prays to set aside the award passed by the Labour Court.

5. On the other hand, learned counsel for the 1st respondent submits that the Labour Court had rightly come to the conclusion that the Pranganam Officer had no right to terminate the services of the workman and her failure to issue reappointment orders to the workman after 25.04.1997, and that the enquiry report reveals that the order of termination was not at all warranted and, accordingly, passed the award directing reappointment of the 1st respondent with full back

wages. Therefore, the award of the Labour Court needs no interference.

6. I have considered the submissions made by the parties.

7. It is brought to the notice of this Court by the learned standing counsel for the petitioner institution that as per the interim orders dated 20.08.2001 passed by this Court in W.P.M.P.No.21749 of 2001, the petitioner institution had complied with the provisions of Section 17-B of the Industrial Disputes Act, 1947 and the 1st respondent was reinstated into service as driver in TBMPP, Chilkur, on 01.10.2001 and is continuing as such.

8. As can be seen from the record, the 1st respondent was disengaged on 25.04.1997 and he had approached the Labour Court only in 1999. In such circumstance, it would be too harsh to direct the petitioner institution to pay back wages even for the period when the 1st respondent had not approached the Labour Court. The direction of the Labour Court to the petitioner institution that the 1st respondent be reappointed with effect from 26.04.1997 and paid back wages from 26.04.1997, would also be too harsh. Therefore, in the facts and circumstances of the case, it would be appropriate if the award of the Labour Court is modified to the effect that the 1st respondent is entitled for back wages from the date on which he had preferred the I.D., but not from 26.04.1997. The order of the Labour Court with regard to the reappointment of the 1st respondent with effect from

26.04.1997 is confirmed. With this modification, the Writ Petition is disposed of.

Consequently, miscellaneous petitions if any pending in the writ petition shall also stand dismissed. There shall be no order as to costs.

ABHINAND KUMAR SHAVILI, J

13th December, 2017
cbs



HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI



WRIT PETITION No. 17380 of 2001
(disposed of)

13th December, 2017

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