

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 9561 of 2004

ORDER:

1) Aggrieved by an order, dated 23.06.2003, passed in M.P.No.8 of 2002 on the file of the Industrial Tribunal-II, Hyderabad, the State Road Transport Corporation (for short "the corporation"), the present writ petition is filed.

2) The facts in issue are as under:

The first respondent herein, who joined as Conductor in petitioner's Corporation, was illegally terminated from service in the year 1985. Aggrieved by the same, he filed I.D.No.310 of 1987 on the file of the Labour Court-I. The said I.D. was dismissed, confirming the termination order passed by the Corporation. Challenging the same, the petitioner preferred W.P.No.2705 of 1991 before this Court. By an order, dated 03.07.1996, the said Writ Petition was partly allowed directing the Corporation to reinstate the petitioner into service, without backwages and with continuity of service. Basing on the said order, the first respondent herein approached the Corporation on 27.07.1996 but the Corporation failed to reinstate him into service. Later, the first respondent got issued legal notice but to no avail. Hence, he filed M.P.No.8 of 2002 claiming backwages from 03.07.1996 to 12.05.1999 under the revised pay scales. The respondent Corporation filed counter denying the allegations made in the petition. It is stated that under Section 33 (c) (2) of the I.D.Act

an employee can submit petition for recovery of due amounts from the employer within one year from which such amount became due. The employee claimed the amount after one year. It is also stated that against the order in W.P.No.2705 of 1991, writ appeal is filed which is still pending. It is urged that pending writ petition, the employee would not be entitled for the relief claimed by him.

3) After analyzing the rival contentions made, the Labour Court-II, Hyderabad, allowed the petition holding that the petitioner is entitled for the wages under the scales for the relevant period from 03.07.1996 to 07.07.1998 with costs. Since neither from the pleadings nor the evidence of the parties, are clear about the pay particulars, the quantum of amount is not fixed by the Tribunal. It is further held that the petitioner therein has to work it out by filing an E.P. if necessary. Challenging the said order, the present writ petition came to be filed.

4) While admitting the writ petition on 16.06.2004 this Court granted interim stay subject to the condition of depositing half of the amount, awarded by the Tribunal within a period of six weeks from today, failing which the stay shall stand vacated. For vacating the said stay the first respondent herein filed W.V.M.P.No.2443 of 2004.

5) Learned counsel for the first respondent submits that the writ appeal filed by the Corporation was rejected. It is the case

of the petitioner that though he was reinstated into service but denied the wages.

6) Learned counsel for the petitioner submits that the Industrial Tribunal-II has no jurisdiction to entertain an application under Section 33 (c) (2) of the Industrial Disputes Act, 1947. The issue is no more *res integra* in view of the judgment of this Court in *A.P.State Textile Development Corporation Ltd., Hyderabad v. Presiding Officer, Labour Court, Guntur and others*¹ wherein this Court held as under:

“ Under Section 33-C(2) of the Industrial Disputes Act, the Labour Court has extended the interpretation of the provisions of the G.O. on which the workmen’s right rests like the power of an executing Court to interpret the decree for the purpose of execution and nothing more than that. In view of the findings arrived at, there is no illegality or error apparent on the face of record warranting interference.”

7) At this stage learned counsel for the petitioner submits that pursuant to an order passed by this Court on 16.06.2004 half of the amount was deposited which was withdrawn by the first respondent. Learned counsel for the first respondent submits that the petitioner failed to show the basis for arriving at Rs.31,214/-, which is deposited before the Court. Having regard to the above, I see no merit in the writ petition. However, it is always open to the first respondent to make a suitable application before the appropriate authority seeking fixation of quantum of

¹ (2013) 1 ALD 423 (DB)

amount, in which event the same shall be considered in accordance with law.

8) Accordingly, the writ petition is disposed of. There shall be no order as to costs.

9) Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

23.01.2017
gkv

