

**THE HONOURABLE SRI JUSTICE RAJA ELANGO**

**CIVIL REVISION PETITION No.1968 of 2017**

**ORDER:**

The Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioner against the order, dated 26.12.2016, passed by the Authority under Section 48(3) of Andhra Pradesh Shops and Establishments Act and Deputy Commissioner of Labour, Kakinada, in I.A.No.2 of 2016 in A.P.S.E.Appeal.No.1 of 2016.

2. The petitioner herein filed A.P.S.E.No.1 of 2013 under Section 48 of the Andhra Pradesh Shops and Establishments Act (for short, 'the Act'), before the Assistant Commissioner of Labour, Rajamahendravaram, praying to reinstate him into service with full back wages from the date of termination, wherein the learned Assistant Commissioner of Labour passed orders, dated 14.06.2016, in A.P.S.E.No.1 of 2013, directing the 1<sup>st</sup> respondent/appellant to reinstate the petitioner into service and pay full back wages from the date of termination to the date of reinstatement. Aggrieved by the said order, the 1<sup>st</sup> respondent/appellant filed appeal in A.P.S.E.Appeal.No.1 of 2016, under Section 48(1) of the Act before the Authority under Section 48(3) of Andhra Pradesh Shops and Establishments Act and Deputy Commissioner of Labour, Kakinada, praying to allow the appeal by setting aside the orders in A.P.S.E.No.1 of 2013 by duly depositing the back wages of Rs.5,27,335/-. The petitioner herein filed I.A.No.2 of 2016 in A.P.S.E.Appeal.No.1 of 2016 before the Deputy Commissioner of Labour, Kakinada, praying to pay the

deposited amount of Rs.5,27,335/- in full and to pay last drawn pay of Rs.5,000/- per month after the day of reinstatement orders, dated 14.06.2016, passed by the lower authority, wherein the Deputy Commissioner of Labour, Kakinada, passed orders, dated 26.12.2016. The operative portion of the said order reads as follows:

“On hearing both sides and perusal of entire material on records, including I.A. petition filed by petitioner / OP, it is felt that the appeal is to be decided after hearing the both sides and other material papers available with both parties. It is also felt that if the application is rejected without hearing the contentions of the both the parties, detailed justice cannot be rendered. So the issue will be decided along with the main case and case is posted to 17/02/2017 @ 3-00 P.M. for regular hearing.”

Aggrieved by the said order, the present civil revision petition is filed by the petitioner.

3. Heard both sides and perused the material available on record.

4. When the matter is taken up for hearing, it is informed by Smt. Bobba Vijayalakshmi, learned counsel for the 1<sup>st</sup> respondent/appellant that the Authority under Section 48(3) of Andhra Pradesh Shops and Establishments Act and Deputy Commissioner of Labour, Kakinada, has not rejected the application of the petitioner i.e., I.A.No.2 of 2016 in A.P.S.E.Appeal.No.1 of 2016, but posted the case to hear along with the main case on 17.02.2017 @ 3.00 p.m. for deciding the issue finally, but in the meanwhile, the petitioner approached this Court by way of filing the above civil revision petition and obtained

interim stay of all further proceedings in A.P.S.E.Appeal.No.1 of 2016.

5. Considering the facts and circumstances of the case and the submissions of the learned counsel for the 1<sup>st</sup> respondent/appellant, this Court is of the view that the impugned order, dated 26.12.2016, passed in I.A.No.2 of 2016 in A.P.S.E.Appeal.No.1 of 2016 is liable to be set aside.

6. Accordingly, the Civil Revision Petition is allowed by setting aside the order, dated 26.12.2016, passed by the Authority under Section 48(3) of Andhra Pradesh Shops and Establishments Act and Deputy Commissioner of Labour, Kakinada, in I.A.No.2 of 2016 in A.P.S.E.Appeal.No.1 of 2016. The Deputy Commissioner of Labour, Kakinada, is directed to dispose of the A.P.S.E.Appeal.No.1 of 2016, as expeditiously as possible, in accordance with law, more preferably within a period of six (6) weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this civil revision petition shall stand closed.

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**RAJA ELANGO, J**

Date: 23<sup>rd</sup> August, 2017

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