

THE HON'BLE SRI JUSTICE M.S.K.JAI SWAL

WRIT PETITION No.4738 of 2006

ORDER:-

This writ petition is filed for the following substantive relief:

“to issue any writ, order or direction more particularly one in the nature of a Writ of Certiorari calling for records relating to the impugned Order in IA Nos.42/2004 & 43/2004 in WC No.43/2003, dated 31.12.2005 on the file of the 1st respondent and quash the same in so far as directing the petitioner to pay half monthly wages.”

Heard the learned counsel for the petitioner as well as the learned counsel for the respondents.

The petitioner is the principal employer of the 2nd respondent, who was engaged by the 3rd respondent-contractor. The 2nd respondent was engaged as an Operator Apprentice on 22.08.2002 on a consolidated pay of Rs.1,000/- for a period of six months. However, within less than a month, the 2nd respondent suffered from eye problem, due to which, he was referred to L.V.Prasad Eye Institute, Hyderabad for treatment. Even though the 2nd respondent was found fit to perform duties, it is stated that he did not report to duty and instead filed W.C.No.43/2003 on the file of the 1st respondent-the Commissioner appointed under Workmen's Compensation Act, 1923, Visakhapatnam.

The enquiry in the main W.C was taken up and during its pendency, the principal employer/the petitioner preferred two applications, viz., I.A.Nos.42 & 43 of 2004 seeking for reopening of the enquiry in main W.C and for a direction to refer the 2nd respondent/employee for report about his disability to a Government Hospital, preferably to Sarojinidevi Eye Hospital, Hyderabad. The 1st respondent has taken up the two applications, and while allowing the same, directed that the petitioner should pay half of the monthly

wages to the 2nd respondent pending disposal of the main W.C. Questioning the said direction, the present writ petition is filed. This court, by order dated 10.03.2006, has stayed the operation of the order of the 1st respondent to that extent.

It is represented that the main W.C is still pending and in view of the stay orders, neither the petitioner is being paid half of the monthly wages nor the 1st respondent has taken up the request of the petitioner to refer the 2nd respondent to Sarojinidevi Eye Hospital, Hyderabad.

The learned counsel for the petitioner submits that relief under Section 4(d) of the Workmen's Compensation Act, 1923 ought not to have been granted to the 2nd respondent, since it is not the petitioner who is the employer of the 2nd respondent and the 3rd respondent-contractor is the employer of the 2nd respondent.

Be that as it may, since the writ petition is pending for more than 11 years, it is felt just and proper to dispose of the writ petition, directing the 1st respondent to dispose of the main W.C.No.43/2003, as expeditiously as possible, preferably within a period of 3 (three) months from the date of receipt of a copy of this order. However, in so far as the direction to pay half of monthly wages is concerned, the same shall remain suspended till disposal of the main W.C.

The Writ Petition is accordingly disposed of. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed in consequence.

M.S.K.JAI SWAL, J

Date: 11.10.2017
Dsr