

**HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI**

**WRIT PETITION No. 5084 of 2001**

**ORDER:**

This writ petition is filed, under Article 226 of the Constitution of India, by the petitioner society, seeking a writ of certiorari to call for the records in M.P.No.4 of 1999 on the file of the Industrial Tribunal-cum-Labour Court, Visakhapatnam, and quash the order dated 24.04.2000 passed therein.

2. Heard Sri V.V.L.N. Sarma, learned counsel for the petitioner society, and Mr. E.V.S.S. Ravi Kumar, learned counsel for the 1<sup>st</sup> respondent.

3. According to the petitioner society, the 1<sup>st</sup> respondent was appointed as an Attender in the society in the year 1956. Subsequently i.e., in the year 1984 he was promoted as an Accountant cum Manager. While so, the Development Officer conducted an inspection of the records of the society and found large scale misappropriation and irregularities committed by the 1<sup>st</sup> respondent and submitted a report on 09.07.1994. Thereafter, as the 1<sup>st</sup> respondent was unauthorizedly absent from duty for some period, the society issued a notice dated 01.02.1995 calling upon him to explain as to why disciplinary action should not be taken against him, for which he sent a reply on 02.02.1995. Thereafter, the 1<sup>st</sup> respondent was suspended vide orders dated 24.03.1995, as he was arrested on charges of misappropriation and absconding from duty. Ultimately, he

was acquitted in C.C.No.90 of 1995 on the file of the IV Additional Judicial Magistrate of First Class, Kakinada. Later on, he got issued a registered notice dated 20.11.1997 informing the society about his acquittal in the C.C. and asking for reinstatement. He had retired from service on 31.07.1998, while he was under suspension. However, he filed M.P.No.4 of 1999 on the file of the Industrial Tribunal-cum-Labour Court, Visakhapatnam, seeking arrears of salary and retirement benefits. The Tribunal, by award dated 24.04.2000, allowed the application, directing the society to pay the arrears of salary as quantified and also the gratuity. Questioning the same, the society filed the present writ petition.

4. Learned counsel for the petitioner society contends that the Tribunal has no jurisdiction to entertain and adjudicate the claim of the 1<sup>st</sup> respondent, as the 1<sup>st</sup> respondent was an employee of the petitioner society, and that the 1<sup>st</sup> respondent has got remedy under the A.P.Shops and Establishments Act, but not under the Industrial Disputes Act.

5. On the other hand, learned counsel for the 1<sup>st</sup> respondent submits that the Tribunal had rightly passed the award impugned in the writ petition and directed that the 1<sup>st</sup> respondent be paid the arrears of salary as quantified by the Tribunal as well as gratuity. Therefore, no interference from this Court is called for.

6. I have considered the submissions made by the parties. The plea of the petitioner society that it is a cooperative society and the Tribunal has no jurisdiction to entertain and adjudicate claim of the workman, was not specifically taken before the Tribunal. The petitioner society had not adduced any evidence and marked any documents, as could be seen from the award passed by the Tribunal. If the petitioner society had any defence to the effect that the 1<sup>st</sup> respondent workman was not entitled for any amounts, nothing prevented it from adducing evidence or marking documents in support of its case. Therefore, I do not find any illegality or irregularity in the award passed by the Tribunal. Accordingly, the Writ Petition is dismissed.

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

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**ABHINAND KUMAR SHAVILI, J**

15<sup>th</sup> December, 2017  
cbs

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI



WRIT PETITION No. 5084 of 2001  
(dismissed)

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