

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.No.154 of 2018

ORDER:

Heard Sri S.Ravindranath, learned counsel for the petitioner, learned Government Pleader for Labour appearing for 1st respondent and Sri C.R.Sridharan, learned Senior Counsel, appearing for Sri Saloori Ramesh, learned counsel for 3rd respondent.

2. The petitioner admittedly approached 2nd respondent invoking its jurisdiction under Section 2-A (2) of the Industrial Disputes Act, 1947 challenging the order dt.26-09-2014 passed by 3rd respondent accepting allegedly voluntary retirement of the petitioner.

3. Persons similarly situated like petitioners also approached the said Tribunal with similar applications. While these were pending, the petitioner filed certain interlocutory applications being I.A.Nos.258, 275, 292 and 309 of 2017 on 23-10-2017 after completion of evidence of M.W.1.

4. Counter affidavits were filed in these applications.

5. The 2nd respondent by order dt.16-11-2017, allowed I.A.Nos.258 and 275 of 2017 with costs of Rs.500/- and dismissed I.A.Nos.292 and 309 of 2017 with costs.

6. Challenging the orders dismissing I.A.No.292 of 2017, petitioner filed W.P.No.39580 of 2017 and challenging the order

dismissing I.A.No.309 of 2017, petitioner filed W.P.No.39582 of 2017.

7. Initially the interim stay was granted but subsequently the Writ Petitions were disposed of stating that evidence is completed on both sides, that the matter is coming for arguments and it is open to parties to take steps for arguing the matter on the basis of evidence on record. It was observed that the reasoning of the 2nd respondent in the impugned orders is *prima facie* correct but the said reasoning should not influence the final decision in the matter.

8. So this Court directed 2nd respondent to hear the parties on the basis of evidence available on record and pass orders in accordance with law without being influenced by the observations already made while passing the orders on 16-11-2017 since they are tentative in nature. It also directed 2nd respondent to adjourn cases to 08-01-2017 and noted that the learned counsel for the parties undertook to advance arguments on that day. This order was passed on 20-12-2017.

9. Within one week thereafter, on 27-12-2017, the petitioner invoked Section 33-B of the Industrial Disputes Act, 1947 and made an application to the Hon'ble Minister for Labour and Employment, Government of Telangana, for transfer of his case as well as other batch of cases to any other Labour Court. On the pretext that the said application is pending and is not disposed of, petitioner has filed the

present Writ Petition seeking direction to the 1st respondent to dispose of the said representation, and pending disposal of the said representation to stay all further proceedings in I.D.No.20 of 2015 and batch.

10. When the matter having come up on 05-01-2018, this Court directed the learned Government Pleader for Labour to take notice and to obtain instructions. It posted the matter after vacation and in the meantime directed stay of all further proceedings in I.D.No.20 of 2015 and batch on the file of 2nd respondent.

11. I.A.No.2 of 2018 is filed by 3rd respondent to vacate the said order.

12. Learned counsel for the petitioner contends that there is every likelihood of 2nd respondent being influenced by the observations made by him in the orders dt.16-11-2017 in I.A.Nos.292 of 2017 and 309 of 2017 in spite of the observation in the order dt.20-12-2017 of this Court in W.P.Nos.39580 and 39582 of 2017 (that 2nd respondent should not get influenced by the said observations which are only tentative in nature). He further contended that if the stay is vacated before consideration of the application dt.27-12-2017 made by the petitioner to the 1st respondent, it would render the request under Section 33-B practically infructuous and so a direction should be given to 1st respondent to dispose of the said representation.

13. Learned Government Pleader for Labour appearing for 1st respondent states that the petitioner ought not to have given representation to the Hon'ble Minister for Labour and Employment and that the representation of the petitioner has since been forwarded to the Secretary, Labour and Employment Department, and he is considering the issue.

14. Sri C.R.Sridharan, learned Senior Counsel, appearing for 3rd respondent, points out that the apprehension of the petitioner is totally without any basis, that petitioner is forum shopping, and having agreed before this Court on 20-12-2017 in W.P.Nos.39580 and 39582 of 2017 to advance arguments before 2nd respondent on 08-01-2017, they could not have resorted to filing of this Writ Petition and getting the proceedings before 2nd respondent stayed.

15. I have noted the submissions of all the parties.

16. Learned counsel for the petitioner did not dispute that in the order dt.20-12-2017 of this Court in W.P.Nos.39580 and 39582 of 2017, filed by his client, the Court recorded that undertaking was given to advance arguments before 2nd respondent on 08-01-2017. Once such undertaking has been given by the petitioner, the petitioner could not have filed the present Writ Petition and sought stay of proceedings in I.D.No.20 of 2015 and batch on the ground that the 2nd respondent is likely to be influenced by the observations made by him in his order dt.16-11-2017 in I.A.Nos.292 of 2017 and 309 of 2017.

That apart there is no evidence placed by the petitioner to show on what basis he can come to the conclusion that 2nd respondent would be influenced by his observations in the order dt.16-11-2017, referred to above. Also the question whether the 2nd respondent is influenced by the said observations or not would be clear only when the final order is passed in I.D.No.20 of 2015 and batch, and there cannot be any conjuncture on the said aspect when the matter is still at the stage of arguments and has not been heard by 2nd respondent yet.

17. Coming to the contention of the learned counsel for the petitioner that his application under Section 33-B would become infructuous when the stay is vacated, even if that be so, the petitioner cannot seek to stay the proceeds in I.D.No.20 of 2015 and batch for the aforesaid reasons.

18. In this view of the matter, I see no reason to continue the stay granted by this Court on 05-01-2018 staying proceedings in I.D.No.20 of 2015 and batch. Accordingly, the said order is vacated and I.A.No.2 of 2018 is allowed.

19. In the result, the Writ Petition is disposed of directing the 1st respondent to take appropriate decision on the petitioner's application within four weeks making it clear that there shall be no stay of the proceedings before 2nd respondent till such a decision of 1st respondent is given; the parties are directed to appear before 2nd respondent on 06-02-2018 at 11 a.m. without fail and address

arguments before the said Court on that day. If not, the said Court is at liberty to proceed *ex parte* and decide the matters.

20. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 30-01-2018

Note:-

Issue C.C. in three days.

B/o.

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