

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.9559 OF 2015

ORDER:

1. This writ petition is filed seeking to issue a Writ of Mandamus declaring the order of the 2nd respondent dated 31.10.2014 in M.W.No.58 of 2011 as contrary to Section 20(7) of the Minimum Wages Act and the Rules made thereunder, and consequently, to set aside the same.

2. Heard Sri Sai Gangadhar Chamarty, learned Counsel for the petitioner and the learned Government Pleader for Labour.

3. It has been submitted by the petitioner that the 3rd respondent filed an application before the 2nd respondent-Authority under Minimum Wages Act, complaining that the management of the petitioner-school has not been paying minimum wages to 25 workers in the school in terms of G.O.Ms.No.90 dated 28.9.2007, and on such complaint, the 2nd respondent issued summons to the petitioner-school, and after considering the case, the 2nd respondent passed award on 13.10.2012 against the petitioner directing that Rs.3,28,778/- should be remitted within 30 days, failing which, the petitioner would be liable for one time compensation amount of Rs.3,28,778/-, and aggrieved by the same, the petitioner filed an application on 26.7.2014 before the 2nd respondent seeking to reopen the case and give an opportunity to contest the case, and the 2nd respondent dismissed the said application vide order dated 31.10.2014, and challenging the same, the present writ petition is filed.

4. It has been submitted by the learned Counsel for the petitioner that when this matter was taken up for admission and hearing, on 7.4.2015, this Court granted interim stay of all further proceedings on condition of the

petitioner depositing the penalty amount of Rs.3,28,778/- with the 2nd respondent on or before 28.4.2015. It has been submitted by the learned Counsel for the petitioner that the said amount of Rs.3,28,778/- as directed by this Court was deposited before the 2nd respondent and now the only issue to be considered in this writ petition is with regard to penalty of one time compensation for the failure of the petitioner to deposit the claim of minimum wages, within 30 days. It has been further submitted by the learned Counsel for the petitioner that there is no dispute as to the amount of minimum wages awarded by the 2nd respondent. The learned Counsel for the petitioner assured that the petitioner will not claim the amount of Rs.3,28,778/- which was deposited as directed by the 2nd respondent towards Minimum wages.

5. The fact that remains undisputed is that the 2nd respondent passed award on 13.10.2012 against the petitioner directing that Rs.3,28,778/- should be remitted within 30 days, failing which, the petitioner would be liable for one time compensation amount of Rs.3,28,778/-. The 2nd respondent also held that if the claim amount and compensation amount are not deposited within 60 days, then the recovery proceedings shall be initiated as per law. Admittedly, the petitioner deposited the amount of minimum wages awarded by the 2nd respondent after the stipulated time.

6. In the circumstances of the case coupled with the fact that the petitioner already deposited the amount awarded by the 2nd respondent towards the claim of Minimum Wages, the only issue that remains to be considered is whether the default clause i.e., penalty of one time compensation of Rs.3,28,778/- warrants re-consideration.

7. Having considered the submissions made by both the Counsel and in view of the fact that the claim of minimum wages has already been deposited, even though it was deposited after the stipulated time, this Court feels that ends of justice would be met if the writ petition is disposed of and the matter is remanded to the 2nd respondent for reconsidering only to the extent of one time compensation aspect.

8. Accordingly, the order of the 2nd respondent dated 31.10.2014 is set aside and the order dated 13.10.2012 is set aside insofar as the default clause i.e., one time compensation of Rs.3,28,778/-, is concerned while remanding the matter to the 2nd respondent for reconsidering the aspect of one time compensation only and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order. The petitioner shall not claim the amount of Rs.3,28,778/- deposited with the 2nd respondent towards the Minimum wages.

9. With the above direction, the Writ Petition is disposed of. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

(ABHINAND KUMAR SHAVILI,J)

19th April, 2018
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