

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.19710 OF 2003

ORDER

This writ petition is filed seeking to issue a Writ of Certiorari calling for the records relating to and connected with the Award dated 6.11.2001 passed in I.D.No.301 of 1997 by the Labour Court, Guntur and to quash or set aside the same by holding it as arbitrary and illegal.

Heard Sri B.Prudhvi Kumar, learned Standing Counsel appearing for the petitioners, learned Government Pleader for Labour appearing for 1st and 2nd respondents and Sri P.Raghavender Reddy, learned counsel appearing for the 3rd respondent

It is the case of the petitioners that the 1st petitioner is the society registered under the A.P.Co-operative Societies Act, 1964 (for short 'the Act'). Their main object is to evolve schemes for the upliftment of the SC beneficiaries in the District and to implement the same with the financial aid by State and Central Government. In order to achieve its object, the 1st petitioner has engaged the respondent-workman as a Section Writer on daily wage basis during 1985 and the respondent-workman continued as such. When the scheme has come to an end, the services of the

respondent-workman were disengaged *vide* order dated 31.1.1990. Thereafter, the respondent-workman had not raised any dispute. After lapse of 7 years, the respondent-workman had preferred I.D.No.301 of 1997 challenging the disengagement by the petitioners before the Labour Court, Guntur, under Section 2-A (2) of the Industrial Disputes Act, 1947 (for short 'the Act'). Without appreciating any of the contentions raised by the petitioners, the Labour Court passed an Award on 6.11.2001 directing the petitioners to reinstate the respondent-workman into service with continuity of service, without back wages. Challenging the same, the present writ petition is filed.

Learned counsel appearing for the petitioners contends that after disengaging the respondent-workman, the petitioners have paid the retirement compensation; that Section 25-F of the Act has no application in the instant case; that the Labour Court had erroneously passed the Award directing the petitioners to reinstate the respondent-workman into service with continuity of service, without back wages; that after his disengagement, the respondent-workman had made a representation seeking to settle his amounts such as retrenchment compensation and notice pay; that the respondent-workman secured employment in Hyderabad and

hence, the question of reinstatement does not arise and that the writ petition is liable to be allowed.

Learned counsel appearing for the respondent-workman contends that the Labour Court had rightly passed the Award in favour of the respondent-workman and there is no illegality or irregularity in the Award passed by the Labour Court.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that since the respondent-workman was employed, the petitioners are resisting the reinstatement of the respondent-workman. Further, the petitioners have been paying 17-B wages since 2009 and thereafter, they are unable to pay the same, as they were not in a position to trace out the whereabouts of the respondent-workman.

Accordingly, the Writ Petition is disposed of modifying the Award passed by the Labour Court to the effect that the petitioners shall pay a sum of Rs.1,00,000/- (Rupees one lakh only) as compensation to the respondent-workman in lieu of reinstatement. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

19th November, 2018
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