

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.20275 OF 2005

ORDER

This writ petition is filed seeking to issue a Writ of Certiorari calling for the records relating to and connected with M.P.No.3 of 2002, dated 09.11.2004 on the file of the Labour Court-II, Hyderabad, and quash or set aside the same by holding it as arbitrary and illegal.

Heard Sri A.Ravi Babu, learned Standing Counsel appearing for the petitioner-Corporation, learned Government Pleader for Labour, appearing for the 6th respondent, and Sri P.Govinda Rajulu, learned counsel appearing for respondent Nos.1 to 5.

It is the case of the petitioner-Corporation that the deceased-1st respondent worked as Driver in the Corporation. While working as such, he was removed from service, in the year 1990. Challenging the removal order, the deceased-1st respondent filed I.D.No.537 of 1993 under Section 2-A (2) of the Industrial Disputes Act, 1947 (for short 'the Act'), before the Labour Court, which, in turn, *vide* order dated 08.11.1996, set aside the removal order and, directed the petitioner-Corporation to reinstate him into service with 50% back

wages, continuity of service and attendant benefits. Challenging the Award passed by the Labour Court, the petitioner-Corporation filed W.P.No.19584 of 1997 before this Court. This Court granted interim stay of the Award on 8.4.1997 to the extent of 50% back wages and other benefits, but declined to stay reinstatement of the deceased-workman. The deceased-1st respondent was reinstated into service on 1.3.1997 and while in service, he expired on 27.07.1997. Thereafter, the legal representatives of the deceased-1st respondent were brought on record and they sought payment of service benefits of the 1st respondent in terms of the Award. They also filed vacate stay petition and this Court vacated the stay order on 11.04.2000 *vide* WVMP No.937 of 2000. Thereafter, this Court *vide* order dated 21.02.2007 dismissed W.P.No.19584 of 1997 confirming the order passed by the Labour Court in I.D.No.537 of 1993. When the petitioner-Corporation failed to pay 50% back wages and other benefits of the deceased workman, the legal representatives of the deceased-workman had filed M.P.No.3 of 2002 before the Labour Court under Section 33-C (2) of the Act. The Labour Court, *vide* order dated 09.11.2004, directed the petitioner-Corporation to pay Rs.1,63,197/- towards 50% of the back

wages and interest. Challenging the same, the present writ petition is filed.

Learned Standing Counsel appearing for the petitioner-Corporation contends that the Labour Court was not justified in levying interest @ 12% on 50% of the back wages and erroneously passed the order in favour of the respondents and on this count alone, the order passed by the Labour Court is liable to be set aside.

Learned counsel appearing for the respondents contends that the Labour Court has exercised its discretionary powers and after considering the totality of the case and the fact that there was a delay in payment of 50% back wages, the Labour Court has rightly passed the impugned order granting 50% of back wages with interest @ 12% thereon. In support of his contention, learned counsel placed reliance on the judgment of the Apex Court in *Madhya Pradesh Administration vs. Tribhuban*¹, wherein it is held as under:

“The State of M.P runs an establishment in Delhi known as M.P.Bhawan. The respondent was appointed on a temporary basis from time to time with breaks in service. He worked for the period 13.12.1991 to 1.3.1994. After his services were terminated, an industrial dispute was raised. The Industrial Tribunal while holding that in terminating the services of the respondents, the appellant had failed to comply with the statutory requirements

¹ (2007) 9 Supreme Court Cases 748

contained in Section 25-F of the Industrial Disputes Act, awarded only retrenchment compensation along with notice pay together with interest @ 9% per annum. Validity of the said award was not questioned by the appellant. The respondent, however, filed a writ petition thereagainst.”

Learned counsel appearing for the respondents further contends that W.P.No.19584 of 1997 filed by the petitioner-Corporation was finally dismissed on 21.02.2007 confirming the order passed by the Labour Court in I.D.No.537 of 1993; that in view of the dismissal of the writ petition, the petitioner-Corporation is bound to pay the wages in terms of the order passed in I.D.No.537 of 1993; and that there is no illegality in the order passed by the Labour Court in directing the petitioner-Corporation to pay 50% of the back wages. He further contends that when the petitioner-Corporation failed to pay 50% back wages, the legal representatives of the deceased workman, filed M.P.No.3 of 2002 before the Labour Court-III, Hyderabad, which in turn, taking all the factors into consideration, rightly granted 50% back wages with interest @ 12% thereon.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that the Labour Court has rightly passed the impugned order in favour of the respondents by duly taking into

consideration the earlier order passed in I.D.No.537 of 1993 and there is no illegality in the order impugned. There are no merits in this writ petition.

Accordingly, the Writ Petition is dismissed. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

16th August, 2018
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