

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.26793 of 2003

ORDER:

This writ petition is filed seeking a writ of *certiorari* calling for the records relating to the order dated 06-11-2003 in E.P.No.34 of 2001 in I.D.No.105 of 1990 passed by the Industrial Tribunal and quash or set aside the same holding as illegal and arbitrary.

Heard learned Government Pleader for Irrigation & CAD and Sri A.K.Jayaprakash Rao, learned counsel for the respondents.

Learned Government Pleader had contended that respondent workman was appointed as Winch Operator on daily wage basis in A.P. State Construction Corporation Ltd., N.S.I.C Unit, Khammam on 07-07-1977 and thereafter he was continued upto 06-08-1979. It has been contended that respondent workman on his own has not attended the duties on 06-08-1979 and he has not availed 240 days service in any year and has filed a false case against the petitioners contending that he has been orally terminated and filed an I.D.No.105 of 1990 under Section 2-A(2) of Industrial Disputes Act and the labour Court instead of dismissing the case on merits and also on the ground of laches, had erroneously allowed the I.D. preferred by the respondent workman vide order dated 25.05.1994 directing the petitioners to reinstate the respondent workman into service with full back wages, continuity of service and all other attendant benefits. It is

further contended by the learned Government Pleader that the petitioners herein have challenged the order passed in I.A. by filing W.P.No.2620 of 1995 and this Hon'ble Court was pleased to dispose of the writ petition vide orders dated 26.06.1997 and set aside the impugned award only in respect of payment of back wages and rest of the award was confirmed.

It is further contended that after disposal of the writ petition preferred by the petitioners, they have reinstated the respondent workman into service. The respondent workman had filed E.P.No.34 of 2001 claiming wages in regular scale of pay and the labour Court vide order dated 06.11.2003 was pleased to pass orders holding that the respondent workman is entitled for Rs.2,83,600/- and the said amount was directed to be paid by the petitioners on or before 12.12.2003 failing which attachment of movable properties will be ordered. Challenging the said orders passed by the labour Court, the present writ petition is filed.

It has been contended by the learned Government Pleader that the labour Court had erroneously passed orders in E.P.No.34 of 2001 in I.D.No.105 of 1990 and contends that the writ petition is to be allowed and the order passed by the labour Court is to be set aside.

Learned counsel for the respondent workman contends that the labour Court had rightly passed orders in E.P.No.34 of 2001 in I.D.No.105 of 1990 and rightly directed the petitioners to pay an amount of Rs.26,83,600/-. He further submits that this Court

on 24.12.2003 granted interim suspension of the impugned orders subject to condition of depositing 50% of the wages as directed by the Industrial Tribunal in E.P.No.34 of 2001 in I.D.No.105 of 1990 dated 06.11.2003. As directed by this Court, the petitioners have already paid 50% of the wages to the respondent workman. Only issue is with regard to payment of balance of 50% wages as directed by the Tribunal. He further submits that there are no merits in the writ petition and the same is liable to be dismissed.

This Court having considered the rival submissions of both the counsel is of the considered view that this writ petition can be disposed of modifying the orders passed by the Industrial Tribunal in E.P.No.34 of 2001 in I.D.No.105 of 1990 dated 06.11.2003 to the extent of 50% of the wages as determined by the labour Court and since the petitioners have already paid the 50% of the amount as determined by the labour Court, the payment of balance 50% of the amount as directed by the labour Court does not arise and the same is liable to be set aside.

Accordingly, writ petition is partly allowed. There shall be no order as to costs

Miscellaneous petitions, if any, pending, shall stand closed.

ABHINAND KUMAR SHAVILI,J

Dt: 14.11.2018
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