

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.23557 OF 2006

ORDER

This writ petition is filed seeking the following relief:

“..to issue writ, order or direction more particularly one in the nature of Writ of Certiorari and after calling for the records in I.D.No.19/2001, dt.30.12.2003 on the file of the Hon'ble 1st respondent and quash the Award dated 30-12-2003 in rejecting the claim is illegal, arbitrary and unjust, and consequently set aside the proceedings of the 2nd respondent dated 05.12.1983 by granting increments and pass such other order or orders as this Hon'ble Court may deem fit and proper under the circumstances of the case.”

Heard Sri G.Ravi Mohan, learned counsel appearing for the petitioner, learned Government Pleader for Labour appearing for the 1st respondent and Smt P.Rajini Reddy, learned Standing Counsel appearing for the 2nd respondent-Corporation.

Learned counsel appearing for the petitioner submits that without issuing any show cause notice, the respondent-Corporation ought not to have imposed the punishment of deferment of annual increment for a period of 1 ½ year with cumulative effect; that the Award passed by the Labour Court is liable to be set aside; and that the issue involved in this writ

petition is squarely covered by the judgment of this Court in W.A.No.1079 of 2014, dated 30.07.2014.

Learned Standing Counsel appearing for the respondent-Corporation does not dispute the same. He contends that there is an inordinate delay in challenging the Award passed by the Labour Court.

Learned counsel for the petitioner submits that initially, the petitioner has pursued his remedy before the conciliation officer and thereafter, the State Government had referred the dispute to the Labour Court. Hence, the delay has occurred.

When the petitioner had pursued his remedies before the Conciliation Officer, the question of delay does not arise. The contention of the learned Standing Counsel that there was inordinate delay in approaching the Labour Court cannot be sustained in view of the fact that the appropriate State Government has referred the dispute to the Labour Court for adjudication. Hence, such delay cannot be attributed to the workman. Further, the issue raised in this writ petition is squarely covered by Division Bench Judgment of this Court in W.A.No.1079 of 2014, wherein it was held that withholding of increment with cumulative effect amounts to major penalty and the same could not have been inflicted without conducting departmental enquiry.

Having considered the rival submissions made by the learned counsel on either side and in view of the aforesaid judgment, the Writ Petition is allowed. The impugned punishment order and the Award passed in I.D.No.19 of 2001, dated 30.12.2003, are set aside. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

29th October, 2018
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