

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.NOS.8010, 8048 AND 8073 OF 2002

COMMON ORDER

Petitioner in all these three writ petitions is the management of Deccan Enterprises Pvt. Ltd and the 2nd respondent in these writ petitions are the workmen. Aggrieved by the action of the petitioner in retrenching them, workmen raised I.D.Nos.33, 44 and 45 on the file of Additional Industrial Tribunal – cum – Additional Labour Court, Hyderabad under Section 2-A (2) of the Industrial Disputes Act, 1947 (for brevity 'the Act'). By awards dated 04.08.2000, the Tribunal allowed the claim of the workmen. On the ground that they were not served with notices before passing the awards dated 04.08.2000, management filed interlocutory applications in I.A.Nos.56 of 2001 in I.D.No.44 of 2000, 45 of 2001 in I.D.No.33 of 2000 and 57 of 2001 in I.D.No.45 of 2000, under Section 11 of the said Act, seeking to set aside the awards dated 04.08.2000. By independent orders dated 18-02-2002, the Tribunal dismissed the interlocutory applications. Aggrieved by the same, the present writ petitions have been filed, seeking for a writ of certiorari, calling for the records relating to the above said interlocutory applications and to quash the same.

2. The principal contention of the petitioner – management is that notices issued by the Tribunal was received by one K.Babu Rao, who worked as their Works Manager, but he suddenly left the job without handing over the notices, consequently, the management could not make appearance before the Tribunal, which resulted in passing of *ex parte* awards on 04.08.2000, without any opportunity to the petitioner – management.

3. Impugned orders in all the three writ petitions is similar.

Considering the above ground raised by the petitioner – management, the Tribunal held as under:

“8. As seen from the record, it is quite vivified that the notice was served on the responsible person of the respondent but they never gave notice to the respondent in order to appear before this court on 17-04-2000. Therefore the respondent set *ex parte* and *ex parte* evidence was recorded on 6-7-00 and heard the arguments of petitioner’s counsel on 2-8-2000, and award was passed on 4-8-2000. Therefore, it is purely careless, callousness on the part of the respondent in appearing before this court on 17-04-2000, hence I do not see any ground for allowing the petition. Hence the petition is dismissed without costs.”

As can be seen from the above, when the petitioner – Management was served with notice and has not taken any steps for appearance, the Tribunal had no option, except to decide the case in favour of the workmen.

4. It is brought to the notice of this court that when the petitioner herein retrenched other similar situated employees along with the 2nd respondent – workmen, they raised Industrial Disputes under Section 2-A(2) of the Act, and the Tribunal passed *ex parte* awards, as there was no representation on behalf of management. Aggrieved by the same management filed similar interlocutory applications, as in the present case, seeking to set aside the *ex parte* awards. The Tribunal dismissed the same. Challenging the same, management filed W.P.Nos.8065, 8006, 8011, 8015, 8018, 8021, 8023, 8142, 8155, 8137, 8234, 8141, 8040, 8010 and 8073 of 2002. This court by common order dated 07.03.2014, issued interim directions. Assailing the same, management, preferred appeals in W.A.Nos.697, 698, 700, 701, 702, 703, 708, 726, 727 and 728 of 2016. At this stage, management entered into settlement with the workmen.

Considering the settlement entered into between the parties, Division Bench of this court, by common judgment dated 26.08.2016, disposed of the writ appeals, as well as well the writ petitions, with the following directions:

“As per the settlement, the appellant will pay a sum of Rs.25,00,000/- as full and final settlement of the claims of all the ten workmen, who are arrayed as respondent No.2 in the writ appeals. They have also agreed that with this settlement, Writ Petition Nos.8006, 8011, 8015, 8018, 8021, 8023, 8065, 8137, 8142 & 8155 of 2002 out of which the writ appeals arose, also could be closed and the EPs pending before the Labour Court are also rendered infructuous. Sri B.G.Ravinder Reddy, learned counsel, submitted that his clients will not press the pending EPs.

The appellant is accordingly permitted to pay a sum of Rs.25,00,000/- in two equal installments. The first installment is payable on or before 01.10.2016 and the second installment on or before 01.12.2016. The learned counsel for the workmen agreed that his clients are willing to receive Rs.2,50,000/- each and that the appellant may pay the amount to individual workman through account payee cheques. The appellant has agreed for this proposal.

The writ appeals as well as the writ petitions accordingly stand disposed of.”

5. There is no dispute that the workmen in the present writ petitions are also similarly situated with that of the workmen in the above said batch of writ appeals. When the management has settled the claim of the workmen in the above batch of writ appeals, I do not see any reason why there shall be any departure in the case of present workmen. The payments, arising out of the above said settlement, were made during the year 2016 and now, by passage of time and increase in cost of living, 2nd respondent herein, deserves reasonable enhancement.

6. For the foregoing reasons, writ petitions are disposed of with the following direction:

“The petitioner – Management, is directed to pay an amount of Rs.2,50,000/- (Rupees two lakhs fifty thousand only) each to the 2nd

respondent – workmen in all the three writ petitions, within a period of four weeks from the date of receipt of a copy of this order. In case of default, the 2nd respondent – workmen are at liberty to seek for execution of the awards, in accordance with law.”

7. Interlocutory applications pending, if any, shall stand closed. No costs.

ABHINAND KUMAR SHAVILI,J

DATE:07—09—2018

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