

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.20465 OF 2001

ORDER:

The petitioners – APSEB (Operation Circle) Employees Co-operative Credit Society Limited represented by its President and Secretary respectively filed this Writ Petition to issue a Writ of Certiorari directing the 3rd respondent to send the record in S.T.C.No.371 of 2001 to this Court and to quash the impugned order dated 21.05.1999 of the 2nd respondent on the ground that there is a manifest error apparent on the face of the proceedings, which is contrary to the provisions of APSEB Employees Leave Regulations under Rule 14(ii)(3)(c).

2. The brief facts of the case are that the 1st respondent was employed as Paid Secretary in the APSEB (Operation Circle) Employees Co-operative Credit Society, Rajahmundry from 01.09.1985 to 25.07.1995. The 1st respondent submitted his resignation to his post from the petitioners' society and the same was accepted. The service conditions of the 1st respondent would be governed by the special bye-laws of the petitioners' society under Rule 10 thereof and the leave and gratuity conditions would be regulated as per the APSEB Employees Service Regulations even though the provisions of the A.P. Shops and Establishments Act (for short 'the Act') are applicable to the service conditions of Paid Secretary. The 1st respondent accepted the service regulations of the APSE

Board and he worked till 25.07.1995. While the 1st respondent was working as Paid Secretary, he borrowed a staff loan from the petitioners' society and as on the date of his resignation, he has to pay Rs.4,835/- towards interest over the amount borrowed by him. The 1st respondent, after his retirement, filed a claim petition before the Co-operative Sub-Registrar and Arbitrator, Rajahmundry for recovery of provident fund from the petitioners' society. The matter was settled outside the Court for an amount of Rs.9,782/- and the matter was disposed of by the Arbitrator on 6/7-8-1987. Again, the 1st respondent filed a claim petition in APSE MP No.3 of 1996 dated 02.06.1997 before the Authority i.e. Labour Officer, Rajahmundry under Section 50 of the Act seeking to recover Rs.15,782/- towards service compensation and Rs.26,176/- towards leave salary. The petitioners' society paid an amount of Rs.11,449/- vide B.C.No.54864 dated 13.08.1997 to the 1st respondent as was awarded by the Authority in APSE MP No.3 of 1996. But, the 1st respondent, having not satisfied with the amount awarded in APSE MP No.3 of 1996, filed an appeal vide Appeal No.4 of 1997 before the Appellate Authority appointed under Section 53 of the Act viz., Assistant Commissioner of Labour, Rajahmundry. The said appeal was remanded to the 2nd respondent by order dated 10.12.1998. The 2nd respondent again heard the matter and passed orders dated 21.05.1999 in APSE No.4 of 1998, wherein the

petitioners' society was directed to deposit a sum of Rs.28,676/- in addition to the amount which was already paid. For non-payment of the said amount, the 1st respondent filed an application for enforcement of order dated 21.05.1999. Pursuant to the application of the 2nd respondent, the 3rd respondent registered the same as S.T.C. No.371 of 2000. Being aggrieved by the same, the present writ petition came to be filed.

03. Sri P.Narasimha Rao, learned counsel appearing for the petitioners, would contend that the 1st respondent is not entitled for an amount of Rs.28,676/- towards earned leave and other service benefits in addition to the amount that was already paid, as ordered by the 2nd respondent, as per Rule 10 of the Special Bye-laws relating to the service conditions of the employees of APSEB (Operation Circle) Employees Co-operative Society Limited, Rajahmundry. Rule 10 says that every employee of the society shall be eligible for all kinds of leaves whichever applicable to the employees of the Andhra Pradesh State Electricity Board. Rule 14 (ii) of the Andhra Pradesh State Electricity Board Leave Regulations says that the grant of leave as a terminal benefit to temporary Board employees governed by the said Regulations, is permissible subject to certain conditions. Rule 14(ii)(3) says that such leave will not be admissible in the following circumstances:

“....

- (c) Where the employee concerned resigns the post of his own volition unless the resignation is for the reasons of ill-health or for other reasons beyond his control provided that the sanctioning authority may in such cases grant at its discretion terminal leave not exceeding half the amount of earned leave to the credit of the Board employees concerned.”

Therefore, it is argued that the 1st respondent is not entitled for any earned leave amount much less Rs.28,676/-, and thereby the impugned order is liable to be set aside as it is contrary to the provisions of Andhra Pradesh State Electricity Board Leave Regulations under Rule 14(ii) and sub-rule (3)(c).

04. Sri N.Siva Reddy, learned counsel for the 1st respondent states that in pursuance of the impugned order dated 21.05.1999 and for non-payment of the said amount, the 1st respondent filed a complaint before the 3rd respondent in S.T.C.No.371 of 2001.

05. This Court has not granted any stay and the writ petition is pending since long time. The learned counsel for the 1st respondent is not able to contact the 1st respondent and the learned counsel for the petitioners also not aware of the status of S.T.C.No.371 of 2001 pending before the 3rd respondent. Hence, this Court concludes that the parties are

not interested in prosecuting the case to its logical conclusion.

06. In these circumstances, the Writ Petition is closed. No order as to costs.

07. Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE M.GANGA RAO

10-07-2018
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