

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.3209 of 2006

ORDER:

This writ petition is filed seeking a Writ of Certiorari to call for the records relating to and connected with the orders in I.D.No.141 of 2004, dated 29.08.2005 passed by the Industrial Tribunal and quash or set aside the same holding it as arbitrary and illegal and sought a consequential relief to reinstate the petitioner into service with continuity of service, attendant benefits and back wages.

Heard Sri G.Ravi Mohan, learned counsel for petitioner and Sri V.Hari Haran, learned counsel for the 3rd respondent-employer.

It has been contended by the petitioner that he was initially appointed as a Machinery Attendant on 01.06.1982 in the 3rd respondent-Organisation on consolidated salary of Rs.250/- per month. Petitioner further contend that his probation was also declared on 01.09.1983 and the respondents have awarded an increment of Rs.50/- to him. Thereafter, petitioner was promoted as Junior Operator during January 1994 and while he was working as a Junior Operator at the 3rd respondent's factory at Dondapadu village, Melacheruvu Mandal of Nalgonda District, the 3rd respondent had transferred the petitioner to Manuguru of Khammam District, vide proceedings dated 20.11.2001. Petitioner has submitted series of representations requesting to retain him at Nalgonda, as his children were studying and it would cause inconvenience to his children. Thereafter, petitioner has challenged the orders of transfer by filing O.S.No.6475 of 2001 before the V-Junior

Civil Judge, City Civil Court, Hyderabad. Initially, there was stay and subsequently the said O.S. was dismissed. Thereafter, petitioner has requested the 3rd respondent to retain him at Nalgonda, or at least, to retain him till May 2002, but the 3rd respondent had initiated action as per the Standing Orders and invoked Clause 14.5 of said Standing Orders and passed orders to the effect that the petitioner has voluntarily abandoned the service of 3rd respondent. Challenging the said orders passed by the 3rd respondent, the petitioner has filed I.D.No.141 of 2004 under Section 2-A(2) of the Industrial Disputes Act. The Tribunal, vide orders dated 29.08.2005, upheld the action of 3rd respondent and dismissed the I.D. preferred by the petitioner. Challenging the same, the present writ petition is filed.

Counsel for petitioner submits that the 3rd respondent has not conducted any inquiry and no opportunity was given to the petitioner before passing order to the effect that the petitioner has voluntarily abandoned his duties and contend that appropriate orders be passed directing the 3rd respondent to reinstate the petitioner with all consequential benefits.

Counsel for 3rd respondent has contended that as per the Standing Orders, the 3rd respondent had initiated action against the petitioner and after following the procedure as per the Standing Orders, a notice was given to the petitioner giving opportunity to submit his explanation, and thereafter also, petitioner has not joined in the transferred place and caused lot of inconvenience and heavy loss to the 3rd respondent. The 3rd respondent, being left with no other option, passed orders to the effect

that the petitioner has voluntarily abandoned the services of 3rd respondent.

This Court, having heard the parties on the previous occasion, has enquired from the counsel for the 3rd respondent whether the 3rd respondent is willing to pay any compensation in lieu of reinstatement as the petitioner has put-in more than 22 years of service. Counsel appearing for the 3rd respondent, after consulting the 3rd respondent, has come up with a proposal that the 3rd respondent is willing to pay a sum of Rs.1,00,000/- as full and final settlement in lieu of reinstatement, whereas, the counsel for petitioner contend that the petitioner is also entitled for Gratuity for the service rendered with the 3rd respondent and some reasonable amount of compensation including Gratuity, can be paid to the petitioner.

Therefore, this Court is of the considered view that ends of justice would be met if the 3rd respondent is directed to pay a sum of Rs.1,50,000/- to the petitioner as full and final settlement, which also includes Gratuity amount, in lieu of reinstatement.

Therefore, this writ petition is disposed of directing the 3rd respondent to pay an amount of Rs.1,50,000/-(Rupees One Lakh Fifty thousand only) to the petitioner as full and final settlement including Gratuity, in lieu of reinstatement. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

26th December 2018

ajr