

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.6739 OF 2002

ORDER:

1. This writ petition is filed seeking to issue a writ of Certiorari calling for the records relating to the award dated 30.9.1999 passed in I.D.No.540 of 1993 on the file of the Labour Court-III, Hyderabad, and to quash the same by holding it as illegal and arbitrary.

2. Heard Sri B. Mayur Reddy, learned Standing Counsel for the petitioners and Sri A.K. Jayaprakash Rao, learned Counsel for the 1st respondent.

3. It has been contended by the learned Standing Counsel for the petitioners that the 1st respondent was never engaged on regular basis and she was engaged through a contractor for sweeping the premises of the petitioner-Corporation at Jadcherla, and that she raised an industrial dispute before the Labour Court by filing I.D.No.540 of 1993 under Section 2-A(2) of the Industrial Disputes Act challenging the oral termination order dated 4.10.1992 and the Labour Court erroneously passed the award dated 30.9.1999 directing the petitioner-Corporation to reinstate the 1st respondent herein into service with continuity of service and back wages, and challenging the same, the present writ petition has been filed.

4. Further, the learned Standing Counsel for the petitioner-Corporation contended that while admitting this writ petition, the award of the Labour Court was suspended by order dated 12.4.2002 subject to payment of wages under Section 17-B of the Industrial Disputes Act, and by virtue of the said interlocutory order, the petitioner-Corporation is paying wages under Section 17-B of the Act.

5. Learned Counsel for the 1st respondent contended that the nature of work rendered by the 1st respondent is perennial in nature and the 1st respondent was appointed in the year 1986 and she was orally terminated vide order dated 4.10.1992, and the Labour Court has rightly passed the award directing reinstatement of the 1st respondent with continuity of service and back wages.

6. This Court examined the case from the angle of resolving the issue by exploring the possibility of granting compensation in lieu of reinstatement. Whenever an employer is resisting the reinstatement of a workman, the Courts have to explore the alternative remedy in order to resolve the issue such as payment of compensation in lieu of reinstatement.

7. Admittedly, the petitioner-Corporation has been paying wages to the 1st respondent under Section 17-B of the Industrial Disputes Act from the date of passing of the award in favour of the

1st respondent till today i.e., for nearly 19 years. As the 1st respondent had drawn meager amount of wages when she worked as sweeper and thereafter, she has been drawing meager amount in the form of 17-B wages, this Court is of the view that ends of justice would be met if the petitioner-Corporation is directed to pay an amount of Rs.1,00,000/- (Rupees One Lakh only) as compensation to the 1st respondent in lieu of reinstatement.

8. Accordingly, the Writ Petition is disposed of setting aside the award of the Labour Court in directing the petitioner-Corporation to reinstate the petitioner into service with continuity of service and back wages, subject to the condition of the petitioner-Corporation paying Rs.1,00,000/- (Rupees One Lakh only) to the 1st respondent in lieu of her reinstatement, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

Dated: 3rd August, 2018.
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HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.6739 OF 2002



3/08/2018

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