

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.3574 OF 2004

ORDER

This writ petition is filed seeking the following relief:

“...to call for the records from the 3rd respondent and issue an appropriate writ, order or direction, particularly one in the nature of Writ of Mandamus declaring that the action of the 3rd respondent in proceedings No.DSP/54(1)2003-BDVL, dated 23.2.2004 to recover the amount from the members of the petitioner union from their salary payable on 1.3.2004 as illegal, unjust, contrary to law, arbitrary, amounts to unfair labour practice, in violation of principles of natural justice, quite mechanical and contrary to Circular No.PD-4/2003, dated 17.1.2003, and also in violation of Articles 14 and 21 of the Constitution of India and grant all consequential benefits, and pass such other order or orders as deemed fit and proper under the circumstances of the case.”

Heard Sri A.K.Jaya Prakash Rao, learned counsel appearing for the petitioner and Sri A.Rama Rao, learned Standing Counsel appearing for the respondent-Corporation.

Petitioner is the registered Union. The respondent-Corporation had issued the proceedings dated 23.2.2004, wherein an amount of Rs.2,21,980/- was sought to be recovered from the members of the Union on the ground that the members of the Union have participated in illegal strike from 7.1.2004 to 10.1.2004, which caused loss to the respondent-Corporation.

Learned counsel appearing for the petitioner contends that the respondents have issued a Circular dated 17.1.2003 wherein an elaborate procedure has been prescribed to resolve

the issues arising out of illegal strikes; that as per the said Circular, a Committee will be constituted consisting officials and members of recognized Union to examine the reasons for recurrence of catcall strikes and that based upon such representation, the Managing Director would pass appropriate orders and till such time, recoveries would be kept in abeyance. Learned counsel further submits that no such Committee was constituted to examine as to whether the strike call given by the Union from 6.1.2004 to 10.1.2004 is justified or not; that without there being any committee, the respondents have mechanically issued the impugned notice on 6.2.2004; that while submitting explanation to the said notice, the members of the petitioner-Union have requested 15 days additional time to give comprehensive explanation, but the respondents, without granting any time, have mechanically passed the order on 23.2.2004 to the effect that the members of the petitioner Union should pay the amounts as stated supra; and that appropriate orders be passed by setting aside the impugned order.

Learned Standing Counsel appearing for the respondents contends that as per the Regulations, the respondents are entitled to recover the amounts from the members of the petitioner Union, who were involved in illegal

strike and caused loss to the respondent-Corporation; and that the issue involved in this writ petition is squarely covered by the judgment of this Court in WP No.10652 of 2011 and following the same, this writ petition is liable to be dismissed.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that after affording an opportunity to the petitioner-Union, the respondents have rightly passed the impugned order. No illegality or irregularity has been committed by the respondents in recovering the amounts from the members of the petitioner Union for participating in illegal strike and the respondents have followed the rules and regulations of the Corporation while passing the impugned order. There are no merits in the writ petition and the same is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

30th November, 2018
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