

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 7315 of 2004

ORDER:

This writ petition is filed seeking to issue a writ of certiorari calling for the record relating to and connected with M.P.No.16 of 2001 on the file of the 1st respondent-Labour Court and quash the order dated 17.02.2004 passed therein and, consequently, declare the claim of the 2nd respondent as illegal and without jurisdiction.

2. Heard Sri N. Jagannadham, learned counsel for the petitioner, and Sri G. Ravi Mohan, learned counsel for the 2nd respondent.

3. It has been contended by the petitioner that the 2nd respondent was engaged as Manager in the company and he used to collect the chit amount from the subscribers and also mobilize the subscribers to the company. It is also contended that the 2nd respondent served the company from October 1996 to June 2000 and, during the said period, he committed misappropriation of the amounts received from the subscribers by not crediting the said amounts to their accounts and he did not attend duty from July, 2000. Though the company demanded the 2nd respondent to pay the misappropriated amount, he avoided to pay the amount. But, the 2nd respondent, without disclosing all these facts, had approached the 1st respondent-Labour Court by filing M.P.No.16 of 2001 under Section 33 (c) (2) of Industrial Disputes Act seeking determination of wages from 01.04.2000 to 31.07.2001 and bonus for the said period. The Labour Court, vide orders dated

17.02.2004, allowed the said application and directed the company to pay an amount of Rs.54,000/- to the 2nd respondent towards wages and bonus. Challenging the same, the present writ petition is filed.

4. It has been contended by the learned counsel for the petitioner that the 2nd respondent was appointed as Manager in the company and he does not come within the definition of a workman under the Industrial Disputes Act and the Labour Court ought not to have entertained the application filed by him. It is further contended that the 2nd respondent had not attended duty beyond June, 2000 and, therefore, the question of payment of salary for the period beyond June, 2000 would not arise. Therefore, the impugned order is liable to be set aside.

5. Learned counsel for the 2nd respondent workman has contended that the Labour Court has rightly passed the orders in favour of the 2nd respondent and when no illegality or irregularity has been pointed by the learned counsel for the petitioner, normally this Court cannot interfere with the orders passed by the Labour Court.

6. This Court, having considered the submissions made by the parties and perused the record, is of the considered view that while admitting the writ petition, this Court granted interim suspension of the impugned order on condition of the petitioner depositing half of the amount awarded by the labour Court vide order dated 19.04.2004 in WPMP No.9527 of 2004. The only issue is, whether the remaining

half of the amount is liable to be paid to the 2nd respondent. The stand of the petitioner company before the Labour Court is that the company had employed the 2nd respondent and he worked up to June, 2000 and thereafter, on his own, he did not attend duty. If such was the case, the petitioner ought to have terminated the services of the 2nd respondent for his unauthorized absence or passed an order to the effect that he voluntarily abandoned the service, but, the petitioner had not chosen to pass any orders. The Labour Court has rightly passed orders in favour of the 2nd respondent. Further, no illegality or irregularity has been pointed out by the learned counsel for the petitioner to interfere with the orders passed by the Labour Court. I find no merits in the writ petition and the same is liable to be dismissed.

7. Accordingly, the writ petition is dismissed. Consequently, miscellaneous petitions, if any, pending in the writ petition shall stand closed. No order as to costs.

ABHINAND KUMAR SHAVILI, J

24th September, 2018
cbs

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI



Writ Petition No.7315 of 2004
(dismissed)

24th September, 2018

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