

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.Nos.15794 & 15811 OF 2002

COMMON ORDER

1. Since the issue involved in both the writ petitions is one and the same, they are heard together and are being disposed of by this common order.
2. Heard Sri P.Sridhar Rao, learned Counsel appearing for the petitioners; the learned Government Pleader for Labour appearing for the 1st respondent and Sri Vanam Viswanatham, learned Standing Counsel appearing for the 2nd respondent.
3. Both the writ petitions are filed challenging the order dated 8.1.2001 passed in I.D.Nos.70 of 1999 and 96 of 1998, wherein the Industrial Tribunal-cum-Labour Court, Godavarikhani, refused to grant reinstatement with continuity of service, back wages and other attendant benefits, however, granted compensation of Rs.6,000/- to each of the petitioners.
4. The grievance of the petitioners is that they were all appointed as Mazdoors in the year 1990 and were discharging their duties as such. While so, the 2nd respondent orally terminated them in the year 1992. Aggrieved by the same, they filed the above said IDs before the Labour Court. The Labour Court *vide* order dated 8.1.2001 directed the 2nd respondent to

pay compensation of Rs.6,000/- in lieu of reinstatement. Hence, the present writ petitions are filed.

5. Learned Counsel appearing for the petitioners contends that the Labour Court had erroneously recorded a finding that the petitioners were engaged by the 2nd respondent without following the provisions of the Industrial Disputes Act, 1947; that the Labour Court ought to have exercised its power and reinstated the petitioners into service with full back wages, but it granted only compensation in lieu of reinstatement. In support of his contention, he placed reliance on the Judgment of the Apex Court in ***Ajaib Singh vs. Sirhind Co-operative Marketing-cum-Processing Service Society Limited and another¹***, wherein it was held that the provisions of Article 137 of the Limitation Act, 1963, are not applicable to the case on hand. He further contends that the 2nd respondent orally terminated the petitioners in the year 1992 and they have approached the Labour Court in the year 1998 and 1999; that on the ground of delay, the Labour Court denied reinstatement of the petitioners; and that when the Limitation Act has no application, the Labour Court ought not to have denied reinstatement of the petitioners. He also relied on the decision of the Apex Court in ***Gurmail Singh vs. Principal Govt.***

¹1999 Supreme Court Cases (L&S) 1054

College of Education and others², wherein it was held that mere delay in challenging the termination would not be a bar to the adjudication of the case by the Tribunal and the relief can be moulded.

6. Learned Standing Counsel appearing for the 2nd respondent contends that when the petitioners have abandoned the services on their own in the year 1992, the work carried out by them was entrusted to the contractors and there is no work to re-engage the petitioners into service.

7. This Court has considered the rival submissions made by the learned Counsel on either side. The Labour Court has taken a view that the work supposed to be discharged by the petitioners was entrusted to contractors and that there was a delay of more than six years on the part of the petitioners in approaching the Labour Court. Therefore, the question of reinstating the petitioners in another work was not considered by the Labour Court. No illegality has been committed by the Labour Court and that the Labour Court has rightly granted compensation of Rs.6,000/- to each of the petitioners in lieu of reinstatement. However, while calculating the compensation, the Labour Court has not properly considered the amount. Hence, ends of justice would be met if the compensation

² 2001 SCC (L&S) 105

amount is enhanced from Rs.6,000/- to Rs.10,000/- to each of the petitioners.

8. Accordingly, both the Writ Petitions are disposed of. The amount of compensation awarded by the Labour Court is enhanced from Rs.6,000/- to Rs.10,000/- to each of the petitioners. The 2nd respondent is directed to consider the cases of the petitioners, if there is any work for engaging them. Miscellaneous petitions, if any, pending shall stand closed. No costs.



JUSTICE ABHINAV KUMAR SHAVILI

8th October, 2018
Nn.

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8.10.2018

Nn.