

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.14206 OF 2002

ORDER:

1. This writ petition is filed seeking to issue a writ of Mandamus calling for the records of the 1st respondent in A.P.S.E.S.A.No.2 of 2002 and to set aside the proceedings therein, dated 29.4.2002, and consequently, to direct the 2nd respondent to pay the terminal benefits.

2. Heard Sri Harinath Reddy, learned Counsel for the petitioner, learned Government Pleader for Labour and Sri J. Srinivasa Rao, learned Counsel for respondent No.2.

3. The case of the petitioner in brief is as follows:

(i) The husband of the petitioner was appointed as Clerk in the 2nd respondent-shop and while serving as such, he died on 3.9.1999 and after his death, the petitioner made an application to the Assistant Commissioner of Labour, Vijayawada on 27.10.1999 for terminal benefits. On the directions of the Assistant Commissioner of Labour, Vijayawada, the Assistant Labour Officer, II Circle, Vijayawada issued a notice to the 2nd respondent and conducted joint meetings on different dates. Finally, on 15.12.1999, the Assistant Labour Officer calculated the amount of Rs.1,33,077/- as compensation as per law and ordered the 2nd respondent to pay the said amount. But the 2nd respondent offered

to pay Rs.30,000/- only. Then, the Assistant Labour Officer advised the petitioner through his letter dated 15.12.1999 to file a complaint. Then, she filed a petition before the Labour Officer-IV, Vijayawada, for awarding compensation. As the 2nd respondent was absent on several occasions, the Labour Officer passed ex parte order on 1.5.2000 awarding an amount of Rs.1,33,077/- as compensation.

(ii) Subsequently, the 2nd respondent filed a petition on 26.6.2000 to set aside the ex parte order. Again the 2nd respondent was absent on 12.10.2000 and 8.12.2000, and hence, the Labour Officer dismissed the said petition. Again the 2nd respondent filed another petition. The Labour Officer allowed the said petition on condition of the 2nd respondent depositing 25% of the amount awarded. Aggrieved by the said conditional order, the 2nd respondent filed appeal before the 1st respondent-appellate-authority. The appellate authority allowed the appeal and remanded the matter to the Labour Officer with a direction to give an opportunity to the 2nd respondent. After appreciating the evidence on record, the Labour Officer directed the 2nd respondent to pay compensation of Rs.1,33,077/- to the petitioner vide order dated 11.2.2002. Aggrieved by the same, the 2nd respondent preferred an appeal in A.P.S.E.S.A.No.2 of 2002 before the 1st respondent herein, who allowed the appeal setting aside the order of the Labour

Officer dated 11.2.2002. Aggrieved by the same, the petitioner filed this writ petition.

4. The learned Counsel appearing for the 2nd respondent contended that the husband of the petitioner was never employed in the 2nd respondent-shop and therefore, the question of paying terminal benefits of the petitioner's husband would not arise, whereas the learned Counsel for the petitioner contends that as per the evidence adduced on behalf of the 2nd respondent, the husband of the petitioner worked in the 2nd respondent-shop and he was paid the amount every month, and further, when the petitioner approached the Assistant Labour Officer, the 2nd respondent agreed to pay Rs.30,000/- to the petitioner, and these factors would clearly establish that the husband of the petitioner worked with the 2nd respondent.

5. I have considered the rival submissions made by the parties and perused the material available on record. The appellate authority under the Shops and Establishments Act has gone into the technicalities of the case, without appreciating that the husband of the petitioner was employed in the 2nd respondent-shop. At one stage of the proceedings before the authority as well as the appellate authority, the 2nd respondent had come with a proposal of paying Rs.30,000/- towards terminal benefits of the husband of the petitioner, which itself shows that the husband of the petitioner

worked with the 2nd respondent-shop. Further, during the course of arguments, it has been revealed that the husband of the petitioner is none other than the brother of the proprietor of the 2nd respondent.

6. In the above circumstances, this Court is of the view that ends of justice would be met if a direction is given to the 2nd respondent to pay an amount of Rs.1,33,077/- to the petitioner towards full and final settlement for the services rendered by the petitioner's husband with the 2nd respondent.

7. Accordingly, the Writ Petition is disposed of directing the 2nd respondent to pay Rs.1,33,077/- towards full and final settlement for the services rendered by the petitioner's husband, to the petitioner, 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.

ABHINAND KUMAR SHAVILI, J

Dated: 3.08.2018

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Nn.