

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.9218 of 2004

ORDER:

1. This writ petition is filed seeking to issue a writ of *certiorari* calling for the records relating to the order dated 26.2.2004 in E.P.No.13 of 2002 in I.D.No.26 of 1995 passed by the Industrial Tribunal -cum-Labour Court, and quash the same.

2. Heard learned Government Pleader for Irrigation & CAD and Sri A.K. Jayaprakash Rao, learned Counsel for the 1st respondent.

3. Learned Government Pleader contended that the respondent-workman was appointed as a pump Operator on daily wage basis in A.P. State Construction Corporation Ltd., N.S.L.C Unit, Khammam on 30.10.1976 and thereafter, he was continued upto 06.08.1979. He further contended that the petitioner retrenched the workman on 6.8.1979 for valid reasons and legal necessity and by following the provisions of Section 25-F and G of Industrial Disputes Act and then, the workman filed I.D.No.26 of 1995 before the Labour Court under Section 2-A(2) of the Industrial Disputes Act contending that he was orally terminated illegally, and the Labour Court instead of dismissing the case on merits and on the ground of laches, erroneously allowed the I.D. preferred by the respondent workman vide order dated 31.07.1998 directing the petitioners

to reinstate the respondent-workman into service as Fresh recruit pump operator and to treat and consider the seniority of the workman as per the seniority list of the year 1979, if any regular appointments are made after retrenchment of the workman, however, without back wages and other attendant benefits. He further contended that the petitioners herein have challenged the order passed in I.D. by filing W.P. and the same was dismissed, and the writ appeal was also dismissed and then, the petitioners filed S.L.P. and the same was also dismissed, and after dismissal of the SLP, the petitioners reinstated the respondent-workman into service, and while so, the respondent-workman filed E.P.No.13 of 2002 to recover a sum of Rs.1,46,085/- as delayed wages and seeking attachment of the movable and sale of properties of the 2nd petitioner, and the Labour Court vide order dated 26.2.2004 passed orders directing the petitioners to pay an amount of Rs.1,39,244/- to the workman being delayed wages on or before 26.3.2004, failing which attachment of movable properties will be ordered. Challenging the said orders passed by the Labour Court, the present writ petition is filed.

4. Further, it has been contended by the learned Government Pleader that the Labour Court erroneously passed orders in E.P.No.13 of 2002 in I.D.No.26 of 1995 and that the

writ petition is to be allowed and the order passed by the labour Court is to be set aside.

5. The learned Counsel for the respondent-workman contended that the labour Court had rightly passed orders in E.P.No.13 of 2002 in I.D.No.26 of 1995 and rightly directed the petitioners to pay an amount of Rs.1,39,244/-. He further contended that this Court on 25.5.2004 granted interim suspension of the impugned orders. He further contended that there are no merits in the writ petition and this petition is liable to be dismissed.

6. This Court having considered the rival submissions of both the Counsel is of the considered view that this writ petition can be disposed of modifying the amount of Rs.1,39,244/- awarded by the Labour Court in E.P.No.13 of 2002 in I.D.No.26 of 1995 vide order dated 26.2.2004 to that of 50% thereof.

7. Accordingly, the Writ Petition is partly allowed modifying the amount of Rs.1,39,244/- awarded by the Labour Court in E.P.No.13 of 2002 in I.D.No.26 of 1995 vide order dated 26.2.2004, to that of 50% thereof. There shall be no order as to costs. Miscellaneous petitions, if any, pending, shall stand closed.

ABHINAND KUMAR SHAVILI,J

Dated: 30.11.2018
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