

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.5136 of 2005

ORDER:

This writ petition is filed seeking a Writ of Certiorari to call for the records relating to and connected with the orders passed in I.D.No.315 of 1993, dated 31.03.2004 and quash or set aside the same holding it as arbitrary and illegal.

Heard Sri Vedula Srinivas, counsel for petitioner and Sri Madhusudhana Reddy Pasunoori, counsel for the 2nd respondent-workman.

It has been contended by the petitioner that it is a Firm running a theatre known as Vijaya Mahal, at Nellore. The 2nd respondent was employed as a Gate Keeper during 1986 and while he was working, he had committed misconduct during February 1991. After conducting an inquiry, the services of 2nd respondent-workman were terminated with effect from 21.02.1991. Challenging the same, the 2nd respondent-workman has filed I.D.No.315 of 1993 before the Industrial Tribunal-cum-Labour Court under Section 2-A(2) of the Industrial Disputes Act. The Tribunal, vide orders dated 31.03.2004, allowed the I.D. preferred by the 2nd respondent-workman and set aside the orders of termination and directed the petitioner to reinstate the 2nd respondent-workman with continuity of service and 50% back wages. Challenging the same, the present writ petition is filed.

It has been contended by the petitioner that the 2nd respondent-workman was found illegally collecting an amount of Rs.3/- from three

persons and allowing those persons to see the movie without tickets. An inquiry was conducted by the petitioner and for the proven misconduct in the inquiry, the services of 2nd respondent-workman were terminated. Counsel for petitioner further contend that at para 25 of the Award passed by the Labour Court, the Labour Court has held that the 2nd respondent-workman is not entitled for reinstatement, however, he is entitled for compensation. Contrary to the said observation, the Labour Court has directed for reinstatement of 2nd respondent-workman with 50% back wages. Thus, the Labour Court gave two contradictory findings. Despite holding that the 2nd respondent-workman is not entitled for reinstatement, the Labour Court directed the petitioner to reinstate the 2nd respondent-workman. Counsel for petitioner further submits that as on today, the Theatre is not running and the building was also demolished, therefore, the question of reinstating the 2nd respondent-workman in the Cinema Theatre, would not arise.

This Court, having considered the said submission of the learned counsel for petitioner, is of the considered view that the Labour Court has erred in directing to reinstate the 2nd respondent-workman, despite giving a categorical finding in para 25 of the Award to the effect that the 2nd respondent-workman is not entitled for reinstatement and he is only entitled for compensation. Therefore, the Labour Court ought not to have ordered for reinstatement, but it ought to have awarded reasonable compensation in lieu of reinstatement.

Therefore, this Court is of the considered view that since the 2nd respondent-workman has rendered more than 6 years of service with the

petitioner, ends of justice would be met if an amount of Rs.50,000/- (Rupees Fifty Thousand) is directed to be paid as compensation to the 2nd respondent-workman in lieu of reinstatement.

With the above directions, the writ petition is disposed of.
No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

26th December 2018

ajr

