

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NOs.19224, 22402 and 22403 OF 2001

COMMON ORDER:

1. All these three writ petitions are being disposed of by way of common order as the issue raised in these writ petitions is one and the same.
2. All these writ petitions were filed challenging the award passed by the Labour Court in I.D.No.20/1999, I.D.No.21/1999 and I.D.No.160/99, dated 25.1.2001, and seeking to quash the same by holding them as arbitrary and illegal.
3. Heard Sri A.K. Jayaprakash Rao, learned Counsel for the petitioners and Sri W.B. Srinivas, learned Counsel for the respondents-workmen.
4. It has been submitted by the learned Counsel for the petitioners that in all these three cases, the respondents-workmen were initially appointed on casual basis and their services were extended from time to time whenever there was need and that the petitioners constructed a Kalyanamandapam at Visakhapatnam and appointed the respondents-workmen for maintaining the said Kalyanamandapam. Further, it has been submitted that during the year 1991, the maintenance of Kalyanamandapam was entrusted to private agency, and since there was no work, the petitioners had discontinued the services of the respondents-workmen and then, the workmen filed I.D.Nos.20, 21 and 160 of 1999 and that the Labour Court without appreciating the correct facts passed the awards in all the cases on 25.1.2001 and held that the retrenchment procedure was not followed while terminating the services of the

workmen, and directed the petitioners herein to reinstate the workmen with backwages and continuity of service. It has been further submitted by the learned Counsel for the petitioners that the last drawn wages are being paid under Section 17-B of the I.D. Act, and since there is no perennial work with the petitioners' Kalyanamandapam, it is not possible to reinstate the workmen into service and that the petitioners prayed that if this Court determines reasonable compensation in lieu of reinstatement, they are willing to pay the same.

5. The learned Counsel for the respondents-workmen contends that the Labour Court had rightly passed the awards as the services of the workmen were disengaged without following 25-F of Industrial Disputes Act and that the Labour Court after considering the entire evidence had rightly passed the awards directing the petitioners herein to reinstate the workmen with continuity of service and backwages. The learned Counsel for the respondents further contends that it was admitted by the management witness during the cross-examination before the Labour Court that the work is perennial in nature and that four persons were engaged by the management after disengaging the respondents-workmen, and that the said evidence would show that the claim of the petitioners that there is no work, is totally false.

6. I have considered the rival submissions made by the parties. The learned Counsel for the petitioners relied upon the judgment dated 27.8.2015 rendered by this Court in W.P.No.14322 of 2002, wherein this Court modified the award passed by the Labour Court directing the management to pay compensation of Rs.50,000/- to each of the workmen in lieu of reinstatement, and further submitted that, following the judgment in W.P.No.14322 of 2002, in this case also an amount of

Rs.50,000/- should be awarded to each of the workmen in lieu of reinstatement. The learned Counsel further submitted that in W.A.No.827 of 2010 and batch of cases, a Division Bench of this Court directed the management to pay Rs.40,000/- to each of the workmen as a compensation in lieu of reinstatement, and in the present case also, this Court may direct to pay Rs.40,000/- to Rs.50,000/- to each of the workmen as compensation following the judgment in the above writ appeal.

7. When the learned Counsel for the petitioners submitted that it is not possible for reinstatement of the workmen, this Court asked the learned Counsel for the respondents-workmen as to whether the workman agrees to receive compensation, and if so, what would be the appropriate compensation to be granted in lieu of reinstatement, for which, the learned Counsel for the respondents-workmen submitted that since all the workmen are aged about 52 to 53 years and they have another 6 to 7 years of service ahead of them, if an amount of Rs.2,50,000/- is paid as compensation in lieu of reinstatement, the ends of justice would be met.

8. Now, the issue is what is the appropriate compensation to be paid to the respondents-workmen in lieu of reinstatement.

9. The learned Counsel for the petitioners has brought to the notice of this Court, the judgment rendered by the Hon'ble Supreme Court in S.L.P.No.4013 of 2014, which was filed against the judgment of the Division Bench of this Court dated 27.9.2013 in W.A.No.987/2010, and wherein the Hon'ble Supreme Court had enhanced the compensation to Rs.1,00,000/- to each of the workmen in lieu of reinstatement. In the above case, the workman was paid Rs.10/- per day and in the instant case,

each workman was paid Rs.43/- per day, and when a workman who was earning Rs.10/- per day was awarded with Rs.40,000/- compensation by this Court in lieu of reinstatement and the said compensation was enhanced to that of Rs.1,00,000/- by the Hon'ble Supreme Court, and on the same analogy, in the present case, the workman, who was earning Rs.40/- per day, is entitled for Rs.4,00,000/-, by award of compensation four times more, than what was awarded by a Division Bench of this Court and enhanced by the Hon'ble Supreme Court. In view of the same and considering the fact that the workmen are aged about 52 to 53 years, this Court feels that the claim made by the respondents-workmen to pay compensation only Rs.2,50,000/- in lieu of reinstatement appears to be reasonable and just, and the ends of justice would be met if the petitioners are directed to pay Rs.2,50,000/- to each of the workmen towards compensation.

10. In view of the foregoing discussion, the petitioners are directed to pay Rs.2,50,000/- to each of the workmen as compensation in lieu of reinstatement within a period of eight weeks from the date of receipt of a copy of this order.

11. Accordingly, the Writ Petitions are disposed of, and the awards passed by the Labour Court in I.D.Nos.20, 21 and 160 of 1999, dated 25.1.2001 are modified to the extent indicated above. However, with no costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

(ABHINAND KUMAR SHAVILI, J)

5th January, 2018
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THE HON'BLE Mr. ABHINAND KUMAR SHAVILI

WRIT PETITION NOs.19224, 22402 and 22403 OF 2001



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