

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P. No.15167 of 2005

ORDER:-

This writ petition is filed seeking to issue a writ of *Mandamus* declaring the order dated 08.12.2004 in P.G.Case No. 1 of 2003 passed by the 1st respondent, as arbitrary and illegal.

Heard Sri M. Ravindranath Reddy, learned counsel for the petitioner and Sri Challa Srinivasa Reddy, learned counsel for the 2nd respondent and perused the material placed on record.

The brief facts of the case are that the 2nd respondent is an employee of the petitioner - Union and the gratuity and E.P.F. amounts which were liable to be paid to the 2nd respondent by the petitioner were attached by a competent civil Court by order dated 12.08.1997 passed in I.A.No.1377 of 1997 in O.S.No. 455 of 1997 to a tune of Rs.70,000/- and the order dated 11.09.1997 passed I.A.No. 1272 of 1997 in O.S.No. 568 of 1997 to a tune of Rs.23,000/-. In compliance with the orders passed by the competent Civil Court, the petitioner has attached the amounts payable to the 2nd respondent. Being aggrieved, the 2nd respondent has filed P.G.Case No. 1 of 2003 before the 1st respondent - Authority under Payment of Gratuity Act, and the 1st respondent, without taking into account the orders passed by the

competent civil Court, has passed the impugned order dated 08.12.2004 directing the petitioner to pay terminal benefits such as gratuity and E.P.F. to the petitioner.

The learned counsel for the petitioner has contended that the direction issued by the 1st respondent under the Payment of Gratuity Act runs contrary to the orders passed by the competent civil Court. Therefore, he contends that the impugned order is liable to be set aside.

The learned counsel for the 2nd respondent has contended that the 2nd respondent would abide by the orders passed by the competent civil Court and only after obtaining favourable orders, he would seek payment of gratuity, and therefore pleads that appropriate orders may be passed in this case.

This Court, having considered the rival contentions of the parties, is of the view that inasmuch as the competent civil Court has passed orders of attachment of terminal benefits such as gratuity and E.P.F. payable to the 2nd respondent in I.A.No.1377 of 1997 in O.S.No. 455 of 1997 and I.A.No. 1272 of 1997 in O.S.No.568 of 1997, the issue of payment of terminal benefits cannot be adjudicated by an authority under Payment of Gratuity Act and the orders passed by the authority under Payment of Gratuity Act will be subject to the result in the aforementioned suits.

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

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

ABHINAND KUMAR SHAVILI, J

24-07-2018

bcj

