

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.25964 of 2002

ORDER:

This writ petition is filed seeking *Writ of Certiorari* calling for the records connected with I.D.No.202 of 1997 on the file of the Labour Court, Anantapur and to quash the impugned award, dated 5.11.2001 passed therein as illegal and arbitrary.

Heard learned Government Pleader for Panchayat Raj and Rural Development appearing for the petitioner and Sri I.Venkata Prasad, learned counsel for the 1st respondent-Workman.

It is contended by the petitioner that the first respondent-workman was working on NMR basis from August 1983 onwards and during 1993 on his own, he stopped coming to the work, but the first respondent in spite of working on NMR basis had falsely contended that his services were terminated and he had filed I.D.No.202 of 1997 before the Labour Court, Ananthapur under Section 2(A) 2 of the Industrial Disputes Act challenging his oral termination. The Industrial Tribunal-cum-Labour Court, Ananthapur had passed an Award on 5.11.2001 setting aside the oral termination orders and directing to reinstate the petitioner/first respondent-workman into service. Challenging the same, the present writ petition is filed.

It is contended by the learned Government Pleader that the Labour Court had failed to appreciate that there is no termination order and first respondent-Workman on his own had absented himself from duties but the Labour Court without appreciating any of the contentions raised by the petitioner, had mechanically

passed orders on 5.11.2001 directing the petitioner to reinstate the first respondent-Workman herein into service. But his case has not been considered as per G.O.Ms.No.193 dated 14.3.1990. The first respondent had approached the A.P. Administrative Tribunal by filing O.A.No.2311 of 1992 seeking regularization of his services in terms of G.O.Ms.No.193 dated 14.3.1990 and to continue him on NMR basis. In O.A.No.2311 of 1992, the Tribunal had passed interim orders on 21.4.1992. In pursuance of the interim orders of the Tribunal, the first respondent was engaged as N.M.R. and he was posted to Panchayat Raj Sub Division, Kalyan Durg vide proceedings dated 19.7.1993. He joined on 20.7.1993 and worked only upto 31.10.1993 and had absented to duty.

Learned counsel appearing for the first respondent-Workman had contended that the Labour Court had rightly passed orders on 5.11.2001 in I.D.No. 202 of 1997 directing to reinstate the first respondent-workman, without back wages. The services of the similarly situated persons who were working along with the first respondent-workman were already regularized, whereas the first respondent was singled out and was illegally terminated from service.

At the time of admission of this case, this Court had granted interim stay of the orders passed by the Labour Court, subject to compliance with Section 17 (b) of Industrial Disputes Act. In pursuance of the interim orders passed by this Court, the petitioner was paying 70% of the back wages upto October, 2015. At this stage, it is contended by the learned Government Pleader that the first respondent-workman had filed a representation, dated 18.11.2015 to the Executive Engineer, Panchayat Raj,

Dharmavaram to the effect that he is temporarily employed in RWS Department and in view of his employment in RWS Department, 70% back wages need not be given.

This Court, having considered the rival submissions of the parties, is of the considered view that whenever employer is resisting reinstatement, the ends of justice would be met, if the appropriate compensation is awarded to the workman. Since the first respondent-workman employed on NMR basis since 1983 and he was illegally terminated as per the findings of the Labour Court, to meet the ends of justice, an amount of Rs. 2,00,000/- as compensation shall be paid in lieu of reinstatement of the first respondent-workman, within a period of eight weeks from the date of receipt of a copy of this order.

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

Miscellaneous petitions, pending if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

Date:5/9/2018

Slk

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI



Dated: 05/09/2018

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