

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.3151 OF 2008

ORDER:

The fourth respondent joined the petitioner company as a trainee clerk when it was under the Management of some other person, on 11.06.1982. His services were regularised on 11.12.1982. He rendered the service till October, 1989 while the company was functioning. The company was closed in October, 1989 by the erstwhile Management and the present Management took over the control of the company in 1995. The company was re-opened in the year 1997. Consequently, the fourth respondent was taken into service. The company functioned till March, 1998 and again it was closed. The fourth respondent re-joined the company on 30.01.1997 and resigned the company on 07.03.1998 prior to the closure of the company. The second respondent took up the matter in P.G.No.11 of 2000 and an *ex parte* order was passed on 18.01.2002 directing the petitioner herein to pay the Gratuity amount from 11.06.1982 to 07.03.1998. The petitioner filed an application to set aside the *ex parte* order with an application to condone the delay of 187 days and the same was dismissed on 06.03.2003. Challenging the order, dated 18.01.2002, and the consequential proceedings issued by the third respondent dated 30.12.2007, the present writ petition was filed.

The claim of the fourth respondent was for the period from 11.06.1982 to 07.03.1998. The petitioner herein filed the counter affidavit, but thereafter did not appear and hence, the petitioner was set *ex parte*. The fourth respondent filed various documents under Exs.A.1 to A.10 and after considering those documents, the second respondent passed the order allowing the application of the fourth respondent to

receive Gratuity amount from 11.06.1982 to 07.03.1998. The second respondent relied on Ex.A.1, for the date of joining on 11.06.1982 and there is no dispute with regard to date of resignation on 07.03.1998. Admittedly, the fourth respondent is entitled to receive Gratuity and accordingly, the order was passed for the period of his service. After passing the order by the second respondent on 18.01.2002, an application was filed by the petitioner to review the said order by condoning the delay of 187 days and the reasons shows were that the *ex parte* order was received on 16.02.2002 and it was sent to their counsel on 19.09.2002 for legal opinion. The said application was dismissed by order dated 06.06.2003. The petitioner did not file the present writ petition immediately thereafter, but only when the Assistant Commissioner of Labour, Kurnool addressed a communication to the District Collector, Kurnool on 29.03.2005 for recovery of the amount awarded as arrears, the petitioner woke up. The third respondent issued the order of attachment on 18.11.2005 and even then also, the petitioner did not file the present writ petition, but filed the present writ petition three years thereafter.

In the circumstances, this Court sees no ground to interfere and entertain the present writ petition, which was filed after five years of order of dismissal of review petition, and is accordingly dismissed.

Consequently, miscellaneous petitions, if any pending, in this writ petition, shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO, J

02.01.2018
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