

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.14696 OF 2004

ORDER

This Writ petition is filed seeking to issue a Writ of Certiorari calling for the records relating to and connected with the impugned order dated 11.12.2003 passed in M.P.No.15 of 1997 by the Industrial Tribunal-cum-Additional Labour Court, Hyderabad, and quash or set aside the same by holding it as arbitrary and illegal and consequently, sought a direction to pay the monetary benefits of Rs.1,88,117/- to the petitioner.

Heard Sri William Burra, learned counsel appearing for the petitioner and learned Government Pleader for Labour appearing for the 1st respondent.

It is the case of the petitioner that he was appointed as a Clerk in the 2nd respondent-company on 16.08.1973. While working as such, the 2nd respondent had illegally terminated the services of the petitioner on 16.05.1979. Challenging the order of termination, the petitioner had preferred I.D.No.13 of 1980 before the Labour Court. The Labour Court *vide* order dated 11.11.1981 set aside the order of termination and directed the 2nd respondent to reinstate the petitioner into service with full back wages, continuity of service and other attendant

benefits. Challenging the same, the 2nd respondent had filed W.P.No.240 of 1986 and the same was dismissed on 19.12.1986, confirming the order passed by the Labour Court. Thereafter, the 2nd respondent had preferred W.A.No.1598 of 1987 and the same was also dismissed on 21.01.1988. After dismissal of W.A.No.1598 of 1987, though the 2nd respondent had reinstated the petitioner into service, he had not paid the amount due to the petitioner in compliance of the order passed by the Labour Court on 11.11.1981. Hence, the petitioner filed M.P.No.15 of 1997 seeking an amount of Rs.1,88,117/- towards difference of pay under Section 33-C (2) of the Industrial Disputes Act, 1947 (for short 'the Act'), before Industrial Tribunal. The Tribunal *vide* order dated 11.12.2003 dismissed the same by observing as under:

“Admittedly the petitioner claimed in his claim statement an amount of Rs.1,88,117/-, the bonus, increments, production incentive, leave encashment, regularity attendant bonus, reimbursement of medical expenses, house allowances etc., some of the benefits will come under purview of other benefits, which were not granted by the award. Moreover according to the respondent the petitioner was paid the amount, which he is entitled as per the Award, but the petitioner failed to establish that he is entitled for the amount claimed in the petition except his oral statement regarding application under Section 446 of Companies Act seeking permission, the petitioner obtained order R.C.No.22/00, so the question does not arise, in lieu of the fact that the petitioner failed to establish that he is entitled to that

amount. Hence, petition is dismissed, each party bears their own costs.”

Aggrieved thereby, the present writ petition is filed.

Learned counsel appearing for the petitioner submits that as per the law prevalent, the wages under Section 17-B of the Act has to be calculated as on the date of passing of the Award instead of the date of termination.

On the other hand, learned Government Pleader appearing for the 1st respondent contends that the Tribunal had rightly passed the order impugned and no interference is called for by this Court.

Admittedly, the petitioner was terminated on 16-05-1979. Pursuant to the Award of the Labour Court, he was reinstated into service with full back wages, continuity of service and other attendant benefits. The petitioner contends that the wages as on 11.11.1981 are to be taken into account for calculating back wages and other benefits, but the 2nd respondent had illegally calculated the last wages as on the date of termination i.e., 16.05.1979.

Having considered the submissions made by the learned counsel appearing for the petitioner, this Court is of the considered view that the reliefs claimed by the petitioner in M.P.No.15 of 1997 were never subject matter of the Award passed by the Tribunal on 11.12.2003 and the Tribunal had

rightly dismissed the said M.P. There are no merits in the writ petition and the same is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

16th August, 2018
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