

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.14111 of 2005

ORDER:

This writ petition is filed seeking a Writ of Certiorari to call for the records relating to and connected with the orders passed in S.A.No.2 of 2005 and S.A.No.1 of 2005, dated 25.05.2005, passed by the 2nd respondent and quash the same holding it as arbitrary and illegal.

Heard Sri M.Surendar Rao, learned counsel for petitioner and Sri V.Hari Haran, learned Counsel for the 1st respondent-workman.

It has been contended by the petitioner that the petitioner is running V.K. & Brothers Cycle Stores in Warangal and the petitioner had engaged the 1st respondent-workman as a Fitter and he was paid salary in the post of Fitter, but, the 1st respondent-workman has demanded Rs.4,000/- towards loan. When the petitioner has declined to give loan of Rs.4,000/-, the 1st respondent has voluntarily abandoned the services with the petitioner on 07.06.1993 and the 1st respondent-workman has opened his own cycle shop. Counsel for petitioner contend that the 1st respondent has approached the Authority under Shops and Establishments Act complaining that he was illegally terminated from service. The Authority under Shops and Establishments Act has entertained the complaint made by the 1st respondent and numbered it as S.E.No.2 of 2004 (Old Number 3 of 1994) and passed orders directing the petitioner to pay an amount of Rs.8,040/- excluding Rs.975/- already deposited towards terminal benefits in lieu of reinstatement of 1st respondent-workman, vide orders dated 30.09.2004. Thereafter, the

petitioner has filed S.A.No.2 of 2005 and the 1st respondent-workman has also filed S.A.No.1 of 2005 challenging the orders passed by the 1st appellate authority under Shops and Establishments Act. The petitioner has challenged the orders passed by the 1st appellate authority in S.E.No.2 of 2004, stating that the compensation awarded in favour of the 1st respondent-workman is contrary to law and the 1st respondent is not entitled for compensation as directed by the 1st appellate authority. The 1st respondent-workman has filed S.A.No.1 of 2005 contending that the 1st appellate authority ought to have directed to reinstate him into service instead of granting compensation in lieu of reinstatement. The 2nd appellate authority had considered both the appeals and vide orders dated 25.05.2005, dismissed the Second Appeal No.2 of 2005 filed by the petitioner, and by orders in Second Appeal No.1 of 2005 filed by the 1st respondent-workman, modified the orders passed by the 1st appellate authority in S.E.No.2 of 2004 and enhanced the compensation to Rs.50,000/-, vide orders dated 25.05.2005. Challenging the same, the present writ petition is filed.

Counsel for petitioner contend that the 1st respondent-workman never worked as a Salesman, but he worked only as a Fitter. The salary of the Salesman was Rs.1,050/-, whereas the salary of the Cycle Fitter was only Rs.750/-. Accordingly, the petitioner has paid salary of Rs.750/- to the 1st respondent. But, contrary to the said fact, both the Authorities have not appreciated any of the contentions raised by the petitioner and mechanically passed orders. The 2nd appellate authority in

S.A.No.1 of 2005, has enhanced the compensation in lieu of reinstatement from Rs.8,040/- to that of Rs.40,985/- and contend that the 1st respondent is not entitled for any compensation as the petitioner has not terminated the services of 1st respondent. When the petitioner has not terminated the services of 1st respondent-workman, the question of granting compensation in lieu of reinstatement would not arise. Therefore, appropriate orders be passed by setting aside the orders passed by the 2nd appellate authority in S.A.Nos.1 and 2 of 2005, dated 25.05.2005.

Learned counsel appearing for the 1st respondent-workman has contended that the Authorities under Shops and Establishments Act have rightly passed orders in his favour and no material was placed by the petitioner to demonstrate that the workman was employed as a Cycle Fitter, and in the absence of the same, the Authorities have disbelieved the version of the petitioner and accordingly passed orders in favour of the 1st respondent-workman. It is contended that no illegality or irregularity has been pointed out by the petitioner in the orders passed by the Authorities, and there are no merits in the writ petition and the same is liable to be dismissed.

The learned counsel for 1st respondent-workman further contend that at the time of admission, this Court granted interim directions directing the petitioner to deposit a sum of Rs.10,000/- and accordingly, petitioner has deposited the said amount. The only issue now remains is with regard to payment of balance amount of Rs.30,985/- to be paid by

the petitioner. Therefore, appropriate orders be passed directing the petitioner to pay the balance amount of Rs.30,985/- to the 1st respondent-workman, in the interest of justice.

This Court, having considered the rival submissions of the parties, is of the considered view that the Authorities under Shops and Establishments Act have rightly passed orders in favour of the 1st respondent-workman and awarded compensation of Rs.50,000/- and directed the petitioner to deposit the differential amount of Rs.40,985/-, of which, Rs.10,000/- has already been paid by the petitioner to the 1st respondent-workman. The only issue is with regard to payment of balance amount of Rs.30,985/-. As the petitioner has not pointed out any irregularity or illegality in the orders passed by the Authorities, this Court is not inclined to interfere with the said orders.

The writ petition is accordingly dismissed. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

24th December 2018

ajr