

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.12116 OF 2005

ORDER

This writ petition is filed seeking the following relief:

“To issue an order, direction or writ more particularly one in the nature of Writ of Certiorari, calling for the records leading upto and including the order in M.W.No.31 of 2002, dated 17.11.2004 passed by the 1st respondent in M.W.No.31/2002; (ii) and quash the order in I.A.No.23 of 2004 in M.W.No.31 of 2002 and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

Heard Smt K.Udaya Sri, learned counsel appearing for the petitioner and Learned Government Pleader for Labour appearing for the 1st respondent.

The petitioner is a company registered under the Companies Act and doing business of providing Security Services. The 2nd respondent joined as Security Supervisor on 31.07.1997 and he was paid salary as per the Rules. While so, the 2nd respondent had filed a claim petition before the 1st respondent-Authority under the Minimum Wages Act stating that the petitioner is not paying minimum wages to him, along with an application seeking to condone the delay of 1429 days. The 1st respondent had entertained the said claim petition, and numbered the same as M.W.No.31 of 2002. Thereafter, the 1st respondent *vide* order dated 8.11.2002 allowed the application seeking condonation of delay.

Challenging the same, the petitioner had filed W.P.No.460 of 2003 and this Court vide order dated 8.4.2003 dismissed the same with an observation to examine the plea of the petitioner regarding the maintainability. Thereafter, the 1st respondent, allowed M.W.No.31 of 2002 *vide* order dated 17.11.2004 with an observation that in spite of giving sufficient opportunities to the petitioner, it failed to adduce evidence and did not argue the case; that the petitioner failed to pay the minimum wages to the 2nd respondent-workman; that the petitioner has violated the Minimum Wages Act and not paid the minimum wages to the 2nd respondent-workman; and that the 1st respondent directed the petitioner to deposit the claim amount of Rs.1,39,506/-. Thereafter, the petitioner filed I.A.No.23 of 2004 seeking to set aside the order dated 17.11.2004 passed in M.W.No.31 of 2002 on the ground that the counsel engaged by it failed to pursue the matter effectively. The 1st respondent dismissed the said application as it was not maintainable.

Since the 1st respondent has passed the well considered order in favour of the 2nd respondent-workman, this Court is not inclined to interfere with the same. The ground raised by the petitioner in the application filed by it to set aside the order passed in M.W.No.31 of 2002 was that their counsel has

not pursued the case effectively, cannot be countenanced, at this stage. 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

21st December, 2018

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