

HON' BLE SRI JUSTICE SURESH KUMAR KAIT
&
HON' BLE SRI JUSTICE T. AMARNATH GOUD

W.A.No. 1175 of 2018

JUDGMENT:- (ORAL)

(Per Hon' ble Sri Justice Suresh Kumar Kait)

This appeal is preferred challenging the order dated 29.06.2018 in W.P.No. 25452 of 2001 passed by learned Single Judge of this Court, whereby the writ petition filed by the appellant herein, has been dismissed.

A reference was made to the Labour Court by the Government of Andhra Pradesh under Section 10(1)(c) of the Industrial Disputes Act, 1947 wherein the question for adjudication before the Labour Court was "whether the dismissal of the 2nd respondent with effect from 26.08.1995 by the management of the appellant was justified?". After considering the pleadings of both the parties, the Labour Court passed an *ex parte* award dated 08.08.2001 in I.D. No.89 of 1998, holding as follows:

"The reference is, therefore, answered as follows:

- 1) That the dismissal of Sri Akbar Basha with effect from 26.08.1995 by the management of M/s.Novopan India Limited, Patancheru, Medak District is not justified.
- 2) The petitioner is entitled to reinstatement with continuity of service, full back-wages and all other attendant benefits."

Being aggrieved by the same, the appellant - Company filed an application in I.A.No. 257 of 2001 in I.D.No. 89 of 1998 under Section 11 of the Act seeking to set aside the *ex parte*

award, and the Labour Court dismissed the application by order dated 10.12.2001.

Challenging the same, the appellant filed W.P.No. 25452 of 2001 seeking to quash the order dated 10.12.2001 in I.A.No. 257 of 2001 in I.D.No. 89 of 1998 on the ground that the learned Single Judge has failed to appreciate the law laid down in the Judgment of the Supreme Court in *Grindlays Bank Limited v. Central Government Industrial Tribunal & Others* [AIR 1981, SC 606] whereby the Apex Court has held that an application filed within 30 days from the date of publication of the Award has got to be entertained.

The learned counsel for the appellant submits that in the above referred judgment, application was made within the time stipulated, however the learned Single Judge of this Court, under mistaken impression, held that the application therein was filed after 2½ years of passing an *ex parte* award. Thus, the learned counsel for the appellant argued that the impugned order passed by the learned Single Judge is erroneous and the same is to be set aside.

It is not in dispute that the appellant received notice from the Labour Court on 21.10.1998 in I.D.No. 89 of 1998, whereas *ex parte* award was passed on 08.08.2001, and subsequently, the appellant filed I.A.No. 257 of 2001 on 24.09.2001 seeking to set aside the *ex parte* award. The

common ground on which the Labour Court dismissed the I.D.No. 89 of 1998 and the learned Single Judge of this Court dismissed the W.P.No. 25452 of 2001 filed by the appellant is that while the appellant received notice from the Labour Court on 21.10.1998, the application seeking to set aside the *ex parte* award dated 08.08.2001 was filed on 24.09.2001. Had the appellant – Company been diligent to the dispute referred by the Government on behalf of the 2nd respondent – workman, it would have approached the Labour Court within time immediately after receiving notice dated 21.10.1998.

Keeping in view the facts noted above, we are of the considered opinion that the Labour Court and the learned Single Judge of this Court have rightly observed that the appellant waited for more than 2½ years for filing I.A.No. 257 of 2001 to set aside the *ex parte* award dated 08.08.2001, and the impugned order dated 29.06.2018 in W.P.No. 25452 of 2001 passed by the learned Single Judge is perfectly justified and same does not warrant any interference by this Court.

Hence, we find no merit in the writ appeal, and the same is accordingly dismissed.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

06.09.2018

SURESH KUMAR KAIT, J

bcj

T. AMARNATH GOUD, J