

HON'BLE SRI JUSTICE M.GANGA RAO

W.P.No.11206 OF 2002

ORDER

The petitioner filed this writ petition being aggrieved by the order of the 1st respondent authority passed in M.W.No.12 of 1999, dated 28.01.2002, whereunder the 1st respondent directed the petitioner to pay an amount of Rs.48,683/- towards difference of minimum wages payable to the 2nd respondent, as illegal and arbitrary.

The brief facts of the case are that the 2nd respondent filed an application before the 1st respondent-authority claiming difference of minimum wages from October, 1995 to July, 1996 as he is discharging the post of Manager and was paid wages of clerk only. The 1st respondent-authority having considered the evidence before it, came to the conclusion that the petitioner has not filed any register showing the designation of the 2nd respondent and having appointed the 2nd respondent as Manager and assigned him certain responsibilities, the petitioner cannot claim that the work done by the 2nd respondent is clerical in nature and directed the petitioner to pay an amount of Rs.48,683/- towards difference of wages to the 2nd respondent by way of demand draft. Aggrieved by the said order, the petitioner filed the present writ petition.

Sri A.K.Jaya Prakash Rao, learned counsel appearing for the petitioner would contend that before the Labour Court, the 2nd respondent himself categorically stated that though he was designated as Manager, he discharged the duties of clerk and that on mere designation, the 2nd respondent cannot claim the wages of a Manager. Learned counsel further contends that 2nd respondent filed an application before the 1st respondent claiming difference of wages as a Manager, which is contrary to the provisions of the Industrial Dispute Act, 1947. Hence, the order of the 1st respondent-authority directing the petitioner to deposit an amount of Rs.48,683/- is arbitrary and illegal. He further contends that the petitioner paid difference of wages from 01.10.1995 to 31.07.1996 i.e., for a period of 10 months; though the 2nd respondent admitted that some amounts were paid to him towards difference, without considering the same, the 1st respondent-authority passed the order directing the petitioner to deposit the amount of Rs.48,683/- towards difference of minimum wages, which is arbitrary and illegal.

Sri G.Ravi Mohan, learned counsel appearing for the 2nd respondent would submit that as the petitioner admitted that the 2nd respondent was appointed as Manager, it ought not to have denied the minimum wages payable to the 2nd

respondent on the premise that he discharged the duties of a clerk and there is no illegality or irregularity in the order impugned.

As can be seen from the record, it appears that the petitioner is a Maharashtra Mandal Trust and it is catering the needs of Maharashtra people during their stay in Hyderabad. The petitioner appointed the 2nd respondent as Manager. The contention of the petitioner that though the 2nd respondent was designated as Manager, he discharged the duties of a clerk, and hence, he was paid the wages of a clerk. The petitioner and the 2nd respondent had taken different stand before the Labour Court in I.D.No.131 of 1997 with regard to nature of appointment of the 2nd respondent. Further, the depositions of AW1 and RW1 reveal that certain amount was paid to the 2nd respondent towards difference of minimum wages from October, 1995 to July 1996.

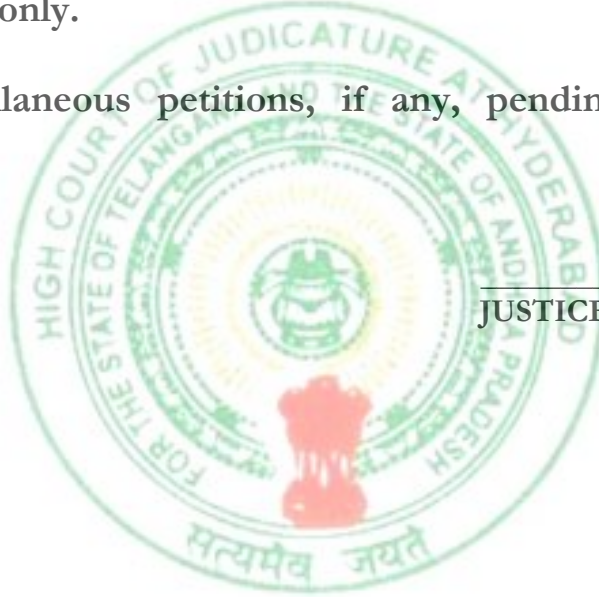
This Court while admitting the writ petition on 25.6.2002, granted interim order in WPMP No.13797 of 2002 subject to deposit of 50% of the amount awarded, accordingly the petitioner deposited the amount, on vacate petition, the interim order made absolute on 03.11.2002 in WVMP No.3335 of 2002.

Having regard to the facts and circumstances of the case, this Court is of the considered view that to meet the ends of justice, it is just and proper to modify order dated 28.01.2002 passed in M.W.No.12 of 1999 restricting the payment of difference of minimum wages to Rs.24,383/- only.

Accordingly, the Writ Petition is allowed in-part and the impugned order is modified by reducing payment of difference of minimum wages payable to the 2nd respondent to Rs.24,383/- only.

Miscellaneous petitions, if any, pending shall stand closed.

20th July, 2018
rkk



JUSTICE M.GANGA RAO