

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 4428 of 2002

ORDER:

This writ petition is filed seeking to issue a writ of mandamus declaring the action of the 2nd respondent in passing the order dated 01.03.2001 in P.W.C.No.6 of 2001 as illegal and arbitrary.

2. Heard Sri A. Ravi Babu, learned standing counsel for the petitioner corporation, and Sri V. Narasimha Goud, learned counsel for the 1st respondent.

3. It has been contended by the petitioner corporation that while the 1st respondent was working as conductor in Nirmal Depot, Adilabad District, he had committed a misconduct, and after conducting an enquiry, the disciplinary authority passed an order dated 06.08.1997 imposing punishment of deferment of annual increment for a period of two years with cumulative effect, besides treating the suspension period as not on duty. After lapse of more than 4 ½ years, the 1st respondent filed an application in P.W.C.No.6 of 2001 before the 2nd respondent under Section 15 (2) of the Payment of Wages Act, 1936 (for short 'the Act'). It is further contended that the 2nd respondent, without properly appreciating the case and without considering the maintainability of the said application, passed an *ex parte* order dated 01.03.2001 allowing the application and directing the petitioner corporation to deposit an amount of Rs.7,364/- by way of a demand draft in favour of the 1st respondent within 30 days. It is

specifically contended that the 2nd respondent authority under the Act has no jurisdiction to adjudicate upon a punishment inflicted by the disciplinary authority. Aggrieved by the order passed by the 2nd respondent, the present writ petition is filed.

4. This Court, having considered the submissions made by the parties, is of the view that the 2nd respondent had exceeded its jurisdiction under the Act and passed the impugned order directing the petitioner corporation to pay an amount of Rs.7,364/-, even for the period when the 1st respondent was suffering with punishment of annual increment for a period of two years. Withholding of increment was imposed as a major penalty. Therefore, the impugned order is liable to be set aside.

5. Accordingly, the writ petition is allowed and the order dated 01.03.2001 passed by the 2nd respondent in P.W.C.No.6 of 2001 is set aside.

Consequently, miscellaneous petitions if any pending in the writ petition shall stand closed. There shall be no order as to costs.

ABHINAND KUMAR SHAVILI, J

25th July, 2018
cbs

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WRIT PETITION No. 4428 of 2002
(allowed)

25th July, 2018

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