

HON'BLE THE CHIEF JUSTICE
SRI THOTTATHIL B. RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE S.V.BHATT

WRIT APPEAL Nos.1631 & 1632 OF 2018

COMMON JUDGMENT: *(Per the Hon'ble Sri Justice S.V.Bhatt)*

Heard Mr.Salloori Ramesh for appellant and the learned Government Pleader (Labour) for respondents.

Writ petitioner, who is employer viz., Dr.Reddy's Laboratories Limited, is the appellant in both the writ appeals.

These appeals are at the instance of petitioner/employer in W.P.Nos.12443 & 12444 of 2007. W.P.Nos.12443 & 12444 of 2007 are filed challenging the order dated 24.04.2006 in S.A.Nos.17 & 18 of 2004 of the 1st respondent/second appellate authority under Section 48(3) of the A.P. Shops & Establishments Act, 1988-cum-the Deputy Commissioner of Labour (Twin Cities), Hyderabad, confirming the order dated 19.07.2004 in S.E.Nos.8 & 9 of 2003 of the 2nd respondent/appellate authority under Section 48(1) of the A.P. Shops & Establishments Act, 1988-cum-the Assistant Commissioner of Labour-II, Hyderabad and quash S.A.Nos.17 & 18 of 2004 of the 1st respondent/second appellate authority, confirming the order dated 19.07.2004 in S.E.Nos.8 & 9 of 2003 of 2nd respondent/appellate authority as arbitrary and without jurisdiction. Aggrieved by the same, the employer filed the instant appeals.

The learned Single Judge, having regard to the limited submissions made by the learned counsel appearing on both sides,

dismissed the appeals by confirming the orders impugned in the appeals. We find it convenient to excerpt the operative portion of the order under appeal:

“Perusal of the above provisions would make it clear that no employer shall without a reasonable cause terminate the services of the employee, who has been in his employment continuously for a period of not less than six months without giving such employee at least one month’s notice in writing or wages in lieu thereof, and in respect of an employee who has been in his employment continuously for a period of not less than one year, a service compensation amounting to fifteen days average wages for each year of continuous employment. The first requirement before termination is one must be paid one month salary in lieu of notice and that an employee is entitled to service compensation amounting to 15 days average wages for each completed year, which would mean that the prerequisite condition to terminate the services is payment of wages for 45 days as per Section 47(1) of the A.P. Shops and Establishments Act.

Insofar as the issue of awarding of compensation is concerned, Section 48(2) of the Shops and Establishments Act empowers the authorities concerned to direct payment of compensation in lieu of reinstatement. It is the contention of the petitioner-employer that 100 days wages is irrational and without any basis. The authority, in its wisdom, granted 100 days wages. As per Section 47(1) of the Act any terminated employee under the Shops and Establishments Act would be entitled for 45 days salary, in addition to that another 55 days were granted by the authorities. The authorities granted relief of compensation for 100 days for each year by duly taking into account the number of years’ service rendered by the unofficial respondents-employees had, and further taking to consideration the fact that the investor services cell was not completely disbanded; some of the employees were continued in the said unit and that the petitioner had selectively chosen to terminate the services of the unofficial respondents-employees. Further, the authorities

have also taken into consideration the number of years of service completed by the employees. Therefore, the decision taken by the authorities to grant 100 days wages for each completed year of service is justified, and at no stretch of imagination, it can be said as arbitrary exercise. Therefore, W.Ps filed by the employer, are liable to be dismissed. Accordingly, they are dismissed.

It is the contention of the unofficial respondents-employees that they should be reinstated into service with all consequential benefits. The authorities, taking into consideration that there was strained relationship between the employer and the employees, considered their claim and rightly held that reinstatement cannot be ordered. The official respondents have rightly passed the orders impugned. Therefore, the W.Ps filed by the employees are also liable to be dismissed. Accordingly, they are dismissed".

We have perused the record and noted the submissions made by the counsel appearing for the parties.

While disposing of these appeals, the grounds urged by the learned counsel appearing for appellants need not be adverted to by us, in this order. For, we are of the view that the statutory authorities, well within the jurisdiction conferred on them, have examined the fact in issue between the rival parties and by duly exercising the jurisdiction, have moulded the relief of awarding compensation to workmen. The learned Single Judge through the order under appeal has confined the judicial review to available grounds under Article 226 of the Constitution of India and recorded the findings excerpted above. Having regard to the findings of fact recorded by all the orders under challenge, and independently after taking note of the findings recorded by the learned Single Judge, we are convinced that the grounds now raised by the

appellants are taken up, the same amounts to re-appreciating the circumstances and recording a finding on the proper exercise of discretion by the learned Single Judge and the authorities under the Act. No perversity is pointed out by the appellants. It is well settled that on the same set of facts if slightly a different view is available, that by itself is not a ground for reconsideration by the Court under Clause 15 of Letters Patent Appeal.

The writ appeals are, accordingly, dismissed holding that there is no ground made out to interfere in the intra court appeals filed under the Letters Patent. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending, stand closed.



THOTTATHIL B. RADHAKRISHNAN, CJ

S.V.BHATT, J

10th December, 2018
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