

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.21416 of 2005

ORDER :

This Writ Petition is filed challenging the Order passed by the Labour Court in M.P.No.7 of 2002, dated 01.10.2004, wherein the Labour Court had awarded Rs.21,316/- in favour of the respondent-Workman who has allegedly worked on overtime basis.

The learned Standing Counsel appearing for the petitioner-Board had contended that the 2nd respondent is not a workman in terms of Section 2(s) of the Industrial Disputes Act and Labour Court erred in entertaining the petition preferred by the 2nd respondent under Section 33-C(2) of the Industrial Disputes Act. The learned Standing Counsel further contended that only the rights which have already been accrued and which are in existence and where certain amounts which have been crystallized upon an adjudication only can be entertained under Section 33-C(2) of the Industrial Disputes Act, but in the instant case, the Labour Court, on its own, has adjudicated the issue as to whether the overtime wages are liable to be paid to the Workman or not, and erroneously granted an amount of Rs.21,316/- in favour of the 2nd respondent without appreciating any of the contentions raised by the petitioner. The learned Standing Counsel further contended that the 2nd respondent-Workman is a Government Employee and he is

eligible for pension and at no stretch of imagination, it can be construed that the 2nd respondent is a Workman within the meaning of the Industrial Disputes Act and, therefore, contends that the Labour Court erred in passing orders in favour of the 2nd respondent-Workman.

Learned Counsel appearing for the respondent-Workman had contended that the Labour Court has rightly passed orders in favour of the workman in M.P.No.7 of 2004, dated 01.10.2004. The respondent-Workman has filed crucial documents before the Labour Court and based upon those documents, the Labour Court has passed orders in his favour, however, the petitioner-Board has not filed those documents before this Hon'ble Court and in the absence of those documents before this Hon'ble Court, it would be difficult for this Court to reverse the findings of the Labour Court. Learned Counsel for the respondent-Workman has relied upon a Circular issued by the petitioner wherein a decision was taken by the petitioner to extend the benefits of overtime as it was being done under the provisions of the Factories Act and relying on such a Circular, the Labour Court has rightly passed Orders in his favour. The learned Counsel appearing for the respondent-Workman further contended that vide orders, dated 04.10.2005, this Hon'ble Court was pleased to grant interim suspension of the orders passed by the Labour Court subject to the condition that the petitioner deposits half of the amount

awarded by the Labour Court and in pursuance of the said interim orders, half of the amount has already been deposited and the respondent-Workman has already withdrawn the said amount. Now, the only issue is about paying the balance amount of Rs.10,658/- and since the respondent-Workman had retired from service, ends of Justice would be met if the balance amount of Rs.10,658/- is directed to be paid to the respondent-Workman. Learned Counsel for the respondent-Workman further contends that as no grave irregularity or illegality has been pointed out by the petitioner, this Court should not normally interfere with the order passed by the Labour Court. There are no merits in the Writ Petition and the same is liable to be dismissed.

This Court, having considered the rival submissions made by the learned Counsel on either side, is of the considered view that the Labour Court has rightly passed order in favour of the respondent-Workman by relying on the documents marked before it and the petitioner has not filed those documents before this Court. In the absence of the documents filed before the Labour Court, this Court cannot come to any conclusion whether the Labour Court was right in passing orders in favour of the respondent-Workman or not? Moreover, when the Labour Court gave a specific finding that the petitioner has issued a Circular to the effect that overtime wages will be paid to the employees in terms of the provisions of the Factories Act,

the Labour Court has no other option except to rely on the said Circular and pass orders in favour of the respondent-Workman. Since there is no grave irregularity or illegality has been pointed out in the Orders passed by the Labour Court, this Court is not inclined to interfere with the orders passed by the Labour Court and hence the Writ Petition is liable to be dismissed.

Accordingly, the Writ Petition is dismissed as devoid of merits. No order as to costs.

As a sequel, miscellaneous petitions pending, if any, in this writ petition shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

23.01.2019.
Msr

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