

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.26842 of 2005

ORDER :

This writ petition is filed challenging the G.O.Rt.No.2271, dated 06.12.2004 issued by the 1st respondent in pursuance of the Award dated 09.09.2004 in I.D.No.172 of 1999 passed by the Industrial Tribunal, wherein the Tribunal has dismissed the I.D. preferred by the petitioner on the ground that the petitioner is not a Workman.

The petitioner was appointed as a Workman in the 2nd respondent Organisation during 1963 and while working, the 2nd respondent had dismissed him from service vide order dated 06.07.1999 on the ground that the petitioner was promoting rival business interest of the 2nd respondent. The petitioner had challenged the said dismissal order before the Tribunal by way of filing I.D.No.172 of 1999 under Section 2-A(2) of the Industrial Disputes Act, 1947 (for brevity "the Act") and the Tribunal had dismissed the said I.D. vide order dated 09.09.2004 on the ground that the petitioner is not a Workman within the meaning of Section 2-S of the Act. Challenging the same, the present writ petition is filed.

Learned counsel for the petitioner contended that without appreciating any of the contentions raised by the petitioner, the Tribunal has erroneously dismissed the I.D. preferred by the petitioner. It is also contended that the Tribunal failed to

appreciate that the order of dismissal is a stigmatic and when a stigma is attached, the 2nd respondent ought to have conducted a detailed enquiry. However, the Tribunal dismissed the I.D. without appreciating that the order of dismissal is a stigmatic and no opportunity was given to the petitioner to put-forth his case. It is also contended that the Tribunal has not even examined properly, whether the petitioner is a Workman or not within the meaning of Section 2-S of the Act. Learned counsel for the petitioner further contends that appropriate orders be passed in the writ petition by setting aside the order of dismissal passed by the 2nd respondent as well as the order dated 09.09.2004 in I.D.No.172 of 1999 passed by the Tribunal and the 2nd respondent be directed to reinstate the petitioner into service with all consequential benefits.

On the other hand, the learned counsel for the 2nd respondent submits that the Tribunal has rightly dismissed the I.D. preferred by the petitioner and no interference is called for with the well considered order passed by the Tribunal.

Having considered the rival submissions made by the learned Counsel for the respective parties, this Court is of the considered view that the Tribunal has thoroughly examined the case of the petitioner and gave a specific finding that the petitioner is discharging his duties in a supervisory capacity and the salary drawn by him also exceeded the ceiling limit fixed for the workman and gave a categorical finding that the

petitioner is not a Workman within the meaning of Section 2-S of the Act and rightly dismissed the I.D. preferred by the petitioner. Moreover, the petitioner has not placed any material before this Court to give a different finding than what was recorded by the Tribunal to the effect that the petitioner is not a Workman. In the absence of any fresh material placed before this Court to adjudicate whether the petitioner is a Workman within the meaning of Section 2-S of the Act or not, this Court cannot interfere with the well reasoned order passed by the Tribunal. Therefore, there are no merits in the writ petition and the same is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. 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

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.26842 of 2005

23.01.2019
Msr