

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.9318 OF 2016

ORDER:

This writ petition is filed seeking a writ of Certiorari to call for the records relating to and connected with the orders dated 15.12.2015 in I.A.No.223 of 2012 in I.D.No.36 of 2011 passed by the Labour Court-I, Hyderabad, and to quash or set aside the same holding it as illegal, arbitrary and without jurisdiction.

Heard Sri Ch. Pushyam Kiran, learned counsel for the petitioner - management, and Sri V. Narasimha Goud, learned counsel for the respondent – workman.

It has been contended by the petitioner – management that the respondent – workman had filed a petition under Section 2-A (2) of the Industrial Disputes Act, 1947 (for short 'the I.D.Act') before Labour Court-I, Hyderabad, challenging the termination orders dated 05.01.2011 passed against him, and the same was numbered as I.D.No.36 of 2011. The petitioner submits that the respondent – workman was not terminated and, on the other hand, the respondent – workman had tendered resignation and the same was accepted by the petitioner and thereafter the respondent – workman was relieved from the duties, but without disclosing all these facts, the respondent – workman had approached the Labour Court under Section 2-A (2) of the I.D. Act. The petitioner – management further submits that in the said I.D., they have filed I.A.No.223 of 2013 raising the jurisdiction aspect and requested the Labour Court to adjudicate the issue of jurisdiction as a preliminary issue before adjudicating the I.D. The Labour Court, vide orders dated 15.12.2015, had dismissed the said I.A contending that the validity of jurisdiction was a mixed question of law

and fact and it can only be decided during trial. Challenging the said orders, the present writ petition is filed.

Learned counsel for the petitioner contends that the Labour Court ought to have allowed the I.A preferred by the petitioner and decided the jurisdiction issue as a preliminary issue before adjudicating the main I.D. The learned counsel further contends that when once the respondent – workman had not disputed the resignation submitted by him, the Labour Court ought not to have entertained the I.D filed under Section 2-A (2) of the I.D. Act, and therefore contends that appropriate orders be passed in the writ petition directing the Labour Court to first adjudicate the jurisdiction issue and only after being satisfied that the Labour Court has jurisdiction to entertain the I.D, to decide the I.D.

Learned counsel for the petitioner further submits that the Labour Court is proceeding with the trial and the right to cross-examine the respondent – workman was forfeited and also the Labour Court is not giving an opportunity to the petitioner to participate in the trial in I.D.No.36 of 2011.

Learned counsel appearing for the respondent – workman had contended that the Labour Court has rightly dismissed I.A.No.223 of 2012 and is rightly proceeding with the I.D. Learned counsel for the respondent further contends that every opportunity is being given to the petitioner to participate in the trial, but the petitioner is not participating in the trial.

This Court, having considered the rival submissions made by the learned counsel for the respective parties, is of the considered view that this writ petition can be disposed of directing the Labour Court to adjudicate the I.D within a reasonable period of six months from the date of receipt of

a copy of this order, after giving an opportunity to the petitioner – management as well as the respondent – workman.

The contention of the petitioner that the Labour Court should first adjudicate the jurisdiction issue as a preliminary issue, cannot be accepted, as the Labour Court has rightly held that the validity of jurisdiction of the Court is a mixed question of law and fact which can only be decided in the trial. However, the petitioner is entitled to raise all the issues even in respect of the maintainability of the I.D and also about the jurisdiction of the Labour Court before the Labour Court.

With these observations, the writ petition is disposed of. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

Dated: 15th February, 2019
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