

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.M.P.No.22649 of 2015
IN/AND
WRIT PETITION NO.2620 OF 2003

COMMON ORDER:

WPMP.No.22649 of 2015 is filed seeking to set aside the default order dated 18.10.2010 against the 1st respondent/workman in W.P.No.2620 of 2003 and restore the writ petition.

When the matter is taken up for hearing, it is noticed that the writ petition against the 1st respondent - workman was dismissed for default vide orders dated 18.08.2010.

In this writ petition, the orders passed by the Industrial Tribunal-cum-Labour Court in E.P.No.31 of 2001 in I.D.No.104 of 1990, dated 29.08.2002, are under challenge. The petitioners are challenging only the consequential orders passed in the E.P., but not the orders passed in I.D.No.104 of 1990.

Government Pleader appearing for the respondents had contended that an application being WPMP.No.55301 of 105 is filed seeking to condone the delay of 1854 days in filing the petition to set aside the default order dated 18.08.2010 and another application being WPMP.No.22649 of 2015 is filed seeking to set aside the default order dated 18.08.2010. Government Pleader further informed the Court that the 1st respondent - workman has expired, but the date as to when the 1st respondent has expired is not furnished.

A perusal of the case would reveal that I.D.No.104 of 1990 filed by the 1st respondent was allowed vide award dated 26.05.1994. Aggrieved by the said award, the petitioners herein have earlier filed W.P.No.3370 of 1995 and the said writ petition was partly allowed on 26.06.1997 confirming the award in respect of reinstatement, while setting aside the award in respect of payment of backwages. Thereafter, when the award passed in I.D.No.104 of 1990, dated 26.05.1994, was not implemented, the 1st respondent has filed E.P.No.31 of 2001 before the Tribunal and the Tribunal vide orders dated 29.08.2002 directed the petitioners to pay an amount of Rs.83,128.50 ps. Challenging the said orders passed in E.P.No.31 of 2001, the present writ petition is filed.

This Court, having considered the above submissions and taking the totality of the case, is of the considered view that in the present writ petition, without challenging the award passed in I.D.No.104 of 1990, the petitioners are challenging the consequential orders passed in E.P.No.31 of 2001. Earlier, the petitioners have challenged the award passed in I.D.No.104 of 1990 by filing W.P.No. 3370 of 1995 and the said writ petition was partly allowed. However, the consequential directions were not complied with by the petitioners. Though the writ petition was dismissed for default in respect of the 1st respondent on 18.08.2010, after five years the petitioners have filed an application to set aside the default order dated 18.08.2010. But, as there was delay of 1854 days in filing the application to set aside the default order dated 18.08.2010, the

petitioners also filed an application to condone the said delay. Since the application to set aside the default order was filed belatedly i.e., after five years from the date of passing of the default order dated 18.08.2010, and also taking into consideration the fact that the 1st respondent died during pendency of this writ petition and as no specific relief is sought against the 2nd respondent, this Court is not inclined to interfere with the case.

Accordingly, WPMP.No.22649 of 2015 is dismissed. Consequently, the writ petition against the 2nd respondent also stands dismissed. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

28th November, 2019
v v