

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.17619 of 2019

ORDER:

Heard Sri K.V.Bhanu Prasad, learned counsel for the petitioner, learned Government Pleader for Labour and Sri C.Sridhar, learned counsel for respondent No.3. With the consent of learned counsel for the respective parties, this Writ Petition is being disposed of at the admission stage.

This writ petition is filed seeking the following relief :-

“.....Writ of Mandamus declaring the order passed by the 2nd respondent in SE.No.1/2017 dated 24.07.2019, as illegal, arbitrary, malafide, highhanded, intentional, without authority and jurisdiction and consequently set aside the same as illegal in the interests of justice and pass all necessary orders.....”

The petitioner is an Educational Institution and the 3rd respondent was employed as an Attender in Nutrition Lab Department of the petitioner-institution in the year 1985 and later she tendered her resignation on 18.12.2009 and accordingly her entire service benefits were also settled. While so, the 3rd respondent filed an appeal i.e, S.E.No.1 of 2017 before the 2nd respondent with a delay of more than 2,500 days contending that she was illegally terminated by the petitioner-institution and the same has been entertained by the 2nd respondent. The petitioner has filed counter affidavit in the said appeal raising a specific plea that the 3rd respondent herself tendered her resignation and accordingly

all her service benefits were also settled and inspite of the same, the 3rd respondent filed the present appeal against the petitioner. But the 2nd respondent, without considering any of the contentions raised by the petitioner, has mechanically allowed S.E.No.1 of 2017 vide order dated 24.07.2019. Challenging the same, the petitioner has filed the present writ petition.

Learned counsel for the petitioner contends that the petitioner has raised a specific plea in the counter affidavit stating that the appeal filed by the 3rd respondent under Section 48(1) of the Telangana Shops and Establishments Act, 1988 (for short 'the Act') is not maintainable. In fact the 3rd respondent has resigned to her post and having accepted her resignation, she was given all the service benefits to which she is entitled to. In spite of the same, the 3rd respondent filed the appeal against the petitioner and the same has been allowed by the 2nd respondent setting aside the verbal termination order dated 01.11.2009 and further directing the petitioner to reinstate the 3rd respondent into service with full back wages and continuity of service with all other attendant benefits within one month. The learned counsel would further contend that as against the impugned order, though the petitioner has a remedy of filing an appeal under the Act before the Deputy Commissioner of Labour, the same is not an efficacious remedy, as the impugned order

passed by the 2nd respondent suffers from lack of inherent jurisdiction.

Learned counsel for the petitioner therefore contends that appropriate orders be passed in the writ petition setting aside the orders passed by the 2nd respondent in S.E.No.1 of 2017 dated 24.07.2019, as the same is contrary to law and suffers from lack of inherent jurisdiction.

On the other hand, learned Government Pleader as well as the learned counsel appearing for the 3rd respondent contend that the 2nd respondent has rightly passed orders in favour of the 3rd respondent and though there is an efficacious alternate remedy of filing an appeal against the impugned order, without exhausting the said remedy, the petitioner has filed the present writ petition.

This Court, having considered the rival submissions, made by the learned counsel for the respective parties, is of the considered view that all the grounds raised by the petitioner that the 2nd respondent lacks inherent jurisdiction to entertain the complaint made by the 3rd respondent and that the 3rd respondent herself tendered her resignation and thereafter filed a false case against the petitioner can be looked into by the appellate authority i.e., Deputy Commissioner of Labour under Section 48(3) of the Act and the contention of the petitioner that there is no efficacious alternate remedy cannot be countenanced. Therefore, this Court is not inclined to interfere with the orders passed by

the 2nd respondent in S.E.No.1 of 2017 dated 24.07.2019. However, the petitioner can raise all these grounds before the appellate authority i.e., Deputy Commissioner of Labour under Section 48(3) of the Act.

With the above observations, the writ petition is dismissed. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

Date: 19-08-2019
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