

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.11517 OF 2006

ORDER:

This writ petition is filed seeking a Writ of Certiorari to call for the records relating to and connected with the impugned award in I.D.No.71 of 2003 dated 21.10.2005 passed by Labour Court-II and quash the same holding it as illegal and without jurisdiction.

Heard Sri N. Vasudeva Reddy, Standing Counsel for the petitioner Corporation, and Government Pleader for Labour.

It has been contended by the petitioner Corporation that the 1st respondent-workman was initially appointed as Driver during 1996. While the 1st respondent was discharging his duties, his driving licence was found to be not genuine and disciplinary proceedings were initiated against him. After conducting detailed enquiry, the disciplinary authority has imposed major penalty of removal vide orders dated 10.07.1998. Thereafter, the 1st respondent has unsuccessfully preferred appeal and revision. Thereafter, the 1st respondent preferred I.D.No.71 of 2003 before the Labour Court - 2nd respondent and the 2nd respondent vide award dated 21.10.2005 has set aside the removal order dated 10.07.1998 and directed that the 1st respondent be reinstated into his original post with 25% back wages and with continuity of service. Challenging the same, the present writ petition is filed.

Standing Counsel appearing for the petitioner Corporation has contended that without appreciating any of the contentions raised by the Corporation, the 2nd respondent has mechanically allowed the I.D directing the Corporation to reinstate the 1st respondent into service with 25% back wages and with continuity of service. Therefore, the impugned award passed by the 2nd respondent is liable to be set aside.

Government Pleader appearing for the respondents had contended that the impugned award passed by the 2nd respondent has been implemented by the petitioners and the 1st respondent was reinstated into service. Government Pleader further contended that the issue is with regard to payment of 25% of back wages and this Court has granted interim stay to the extent of back wages vide order dated 13.06.2006. Government Pleader also contended that in order to give quietus to this long pending case, appropriate orders be passed in the writ petition in accordance with law.

This Court, having considered the rival submissions of learned counsel for respective parties, is of the considered view that in pursuance of the award passed by the 2nd respondent, the 1st respondent was reinstated into service. The only issue is about payment of 25% back wages. When the Labour Court has exercised its power under Section 11-A of the Industrial Disputes Act while setting aside the orders of removal and directing the Corporation to pay 25% back wages, this Court is not inclined to interfere with the findings of the Labour Court, more so when no illegality or

irregularity is pointed out by the petitioners in the instant case. Counsel for the petitioners had contended that at least the award to the extent of entitlement of the 1st respondent for interest @ 9% per annum on back wages if back wages are not paid within two months from the date of publication, be set aside. Admittedly, in the instant case, this Court granted interim stay to the extent of back wages on 13.06.2006 and because of pendency of this writ petition and because of the interlocutory orders passed by this Court on 13.06.2006, the Corporation has not paid 25% back wages. Hence, the observation of the Labour Court to the effect that if back wages are not paid within two months from the date of publication, then the workman is entitled for interest @ 9% per annum in respect of back wages, will not operate till interim order is in existence in the present case. However, if back wages as directed by the Labour Court are not paid within two weeks from today, then the observation made by the Labour Court with regard to payment of interest @ 9% per annum would come into operation.

Accordingly, the writ petition is disposed of. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

14th November, 2019
v v

