

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.19138 of 2019

ORDER

This writ petition is filed seeking the following relief:

“....to issue a writ order or direction more particularly one in the nature of a Writ of Mandamus: (a) declaring the action of respondent No.3 in directing the petitioner to resolve the issue of payment of bonus to the persons employed on outsourcing basis through respondent No.4 as arbitrary, illegal and without jurisdiction (b) direct respondent No.3 to restrain from entertaining representations from the respondent No.5 with respect to persons employed on outsourcing basis through respondent No.4 in the petitioner's institution and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the facts and circumstances of the case.”

Heard Sri P.S.Rajasekhar, learned counsel appearing for the petitioner-University and Sri A.Ravinder, learned Standing Counsel for the Central Government appearing for respondent Nos.1 to 3.

It is the case of the petitioner-University that it has engaged some of the employees through the 4th respondent, which in turn, engaged from the 5th respondent for day-today administration to up-keep the University. The 5th respondent has approached the 3rd respondent seeking claim for grant of

bonus to the outsourcing employees. The 3rd respondent has entertained the petition filed by the 5th respondent and called the petitioner for negotiations. The petitioner has appeared before the 3rd respondent and specifically contended that Bonus Act has no application and the 3rd respondent has no jurisdiction to entertain the petition filed by the 5th respondent in respect of bonus. The second respondent has issued a letter dated 18.10.2017 informing the petitioner-University that the Government of India has not extended the order of the grant of Non-productivity Linked Bonus for the years 2015-16 and 2016-17 to autonomous bodies and if the University has already paid the bonus to their employees for the year 2015-16 and 2016-17, the University may make the recoveries from the concerned employees.

Learned counsel appearing for the petitioner-University contended that even the regular employees are not entitled for the grant of Non-productivity Linked Bonus and hence, the question of extending the said benefit to the outsourcing employees does not arise. It is further contended that the petitioner has submitted a detailed representation to the 3rd respondent on 28.2.2019 stating that the petition filed by the 5th respondent before the 3rd respondent is not maintainable. It is also contended that the 3rd respondent is not adjudicating

the preliminary issue raised by the petitioner in respect of maintainability of the petition. It is prayed that the 3rd respondent be directed to pass appropriate orders on the representation dated 28.2.2019 submitted by the petitioner and thereafter, proceed with the petition filed by the 5th respondent.

Learned Standing Counsel appearing for respondents 1 to 3 contended that the 3rd respondent would consider the representation filed by the petitioner and pass appropriate orders and thereafter, proceed with the petition filed by the 5th respondent.

Having considered the rival submissions made by the learned counsel on either side, this Writ Petition can be disposed of directing the 3rd respondent to consider and pass appropriate orders on the representation dated 28.2.2019 submitted by the petitioner and thereafter, proceed with the petition filed by the 5th respondent, in accordance with law.

Accordingly, the Writ Petition is disposed of. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

26th September, 2019
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