

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.33755 OF 2016

ORDER:

This writ petition is filed seeking a Writ of Certiorari to call for the records related to and connected with the orders dated 11.07.2016 passed in I.D.No.30 of 2006 on the file of the Central Government Industrial Tribunal-cum-Labour Court at Hyderabad and to quash or set aside the same holding it as arbitrary and illegal.

Heard Sri Chintalapudi Lakshmi Kumar, counsel for the petitioner, and Sri B. Pavan Kumar, counsel for the 2nd respondent – workman.

It has been contended by the petitioner that the 2nd respondent was employed with the petitioner's Organisation for sweeping the Office and she was engaged on hourly basis only for three hours in a day. When the services of the 2nd respondent were dispensed with, she has approached the Conciliation Officer raising a dispute and thereupon the Conciliation Officer, after failure of conciliation, has referred the dispute to the appropriate Government. It is also contended that the Government vide proceedings dated 11.05.2006, has referred the dispute under Section 10 (1) (d) of the Industrial Disputes Act, 1947 to the 1st respondent-Central Government Industrial Tribunal-cum-Labour Court at Hyderabad, requiring the forum-1st respondent to decide the question "Whether the action of the management of Bharat Sanchar Nigam Limited, Hyderabad in

terminating the services of Smt. K. Saraswathi, Ex-part time sweeper with effect from 1.11.2004 is legal and justified? If not, to what relief the workman is entitled to?" The 1st respondent, after considering the entire case, was pleased to pass an award dated 11.07.2016 in favour of the 2nd respondent holding that the termination of the 2nd respondent is arbitrary, illegal and unjustified and directed that the 2nd respondent be reinstated into service. Challenging the same, the present writ petition is filed.

Counsel appearing for the petitioner had contended that the 1st respondent had erroneously passed the award in favour of the 2nd respondent and no material was placed before the 1st respondent to demonstrate that the 2nd respondent was working continuously with the petitioner, therefore, appropriate orders be passed in the writ petition by setting the award passed by the 1st respondent.

Counsel appearing for the 2nd respondent had contended that the 2nd respondent has discharged her duties as a part-time sweeper with the petitioner's organisation since 1988 and the services of the 2nd respondent were terminated illegally with effect from 01.11.2004. Counsel for the 2nd respondent further contended that the 2nd respondent has rendered more than 15 years of service and pursued legal remedies before the 1st respondent for 10 years and finally the 1st respondent was pleased to pass the award dated 11.07.2016 in favour of the 2nd respondent. It is also contended that in spite of the fact that this Court has not granted interim suspension of the award passed by

the 1st respondent, the award passed by the 1st respondent has not been implemented and the 2nd respondent is not being reinstated into service. Counsel for the 2nd respondent also contended that since the 2nd respondent is suffering from Cancer, she is not in a position to discharge her duties at this point of time and she is in dire need of money, therefore, appropriate orders be passed in the writ petition directing the petitioner to at least pay a sum of Rs.5,00,000/- in lieu of reinstatement.

It is brought to the notice of this Court that in W.P.No.11234 of 2001 and W.P.No.5527 of 2001 filed by the department of Telecommunications challenging the awards passed in favour of the workmen therein, the department of Telecommunications had come forward to pay compensation in lieu of reinstatement of the workmen therein and this Court had disposed of the said writ petitions directing the department to pay an amount of Rs.2,75,000/- to the workmen therein as compensation in lieu of reinstatement.

Taking a clue from the said writ petitions, this Court is of the considered view that since the petitioner has not reinstated the 2nd respondent into service despite an award being passed in favour of the 2nd respondent on 11.07.2016 and no interim order is granted by this Court, and as the 2nd respondent is not in a position to discharge her duties as she is suffering from Cancer and she is in her last stage, ends of justice would be met if the petitioner is directed to pay a sum of Rs.5,00,000/- to the 2nd respondent as compensation in lieu of

reinstatement, within a period of eight weeks from the date of receipt of a copy of this order.

With the above direction, the writ petition is disposed of. No order as to costs.

Pending miscellaneous petitions, if any, shall stand dismissed.

ABHINAND KUMAR SHAVILI, J

23rd September, 2019
v v

