

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI
WRIT PETITION NOs.2921, 2922, 2923, 2924, 2925, 2926 and
2927 of 2012

COMMON ORDER:

All these writ petitions are being disposed of by way of this common order as the issue raised in these writ petitions is one and the same.

2. For the sake of convenience, the facts in W.P.No.2921 of 2012 are hereunder discussed:

(a) W.P.No.2921 of 2012 is filed seeking a writ of Certiorari to call for the records related to and connected with orders passed in I.A.No.11 of 2011 in M.W. Case No.34 of 2009, dated 31.12.2011 on the file of the Authority under Minimum Wages Act, 1948 and Joint Commissioner of Labour, Warangal and quash or set aside the same holding it as arbitrary, illegal and contrary to the provisions of the Minimum Wages Act, 1948 (for short, 'the Act').

(b) It has been contended by the petitioner that it is a registered Company under the Companies At and it is engaged in contract works of Kothagudem Thermal Power Station (KTPS). Petitioner also contended that KTPS has awarded certain contract works to it and, in order to accomplish the said works, the petitioner has engaged the 2nd respondent along with some other employees. It is further contended that during inspection, the 2nd respondent along with some other employees complained that the petitioner is not paying them the minimum wages as contemplated under the Act. On the basis of such

complaint, a claim under the Act was filed before the 1st respondent - Authority under Minimum Wages Act, 1948 and Joint Commissioner of Labour, Warangal and the same came to be registered as M.W.Case No.34 of 2009. During pendency of the said M.W, the petitioner herein has filed I.A.No.11 of 2011 contending that G.O.Ms.No.107 dated 01.11.2007 has no application to Thermal Power Projects and Power Stations, as the petitioner is engaged in the contract work of A.P. Genco and KTPS in order to complete certain pending power projects. In the said I.A., the petitioner had specifically pleaded that since the principal employer i.e., KTPS had obtained licence under Factories Act, G.O.Ms.No.54 dated 22.06.2007 is more applicable and G.O.Ms.No.107 dated 01.11.2007 has no application and that the petitioner had raised a preliminary issue about the applicability of G.O.Ms.No.107 dated 01.11.2007 to the claimants and the 1st respondent had considered the said I.A preferred by the petitioner and rejected the same vide orders dated 31.12.2011 holding that the objections raised by the petitioner are not sustainable and G.O.Ms.No.107 dated 01.11.2007 is applicable and posted the main case for hearing on 23.01.2012. Challenging the said orders passed by the 1st respondent, W.P.No.2921 of 2012 is filed.

3. In all these writ petitions, this Court was pleased to grant interim stay of all further proceedings vide orders dated 16.02.2012 and by virtue of the said orders, the matters before the 1st respondent are stayed.

4. Counsel appearing for the petitioner had contended that A.P. Genco and KTPS have been granted licence under Factories Act and since the petitioner is discharging the work under contract with A.P. Genco and KTPS, only Factories Act is applicable and A.P. Genco is included in Item No.58 of the Schedule of employment of the Minimum Wages Act and it is governed by minimum wages notified in G.O.Ms.No.54 dated 22.06.2007 issued by the State Government. It is also contended that the petitioner is paying minimum wages as per G.O.Ms.No.54 dated 22.06.2007 and that G.O.Ms.No.107 dated 01.11.2007 is not applicable to the petitioner; therefore, M.W.Cases filed before the 1st respondent are not maintainable.

5. Government Pleader appearing for the respondents had contended that since the petitioner is engaged in civil works, G.O.Ms.No.107 dated 01.11.2007 is applicable and the 1st respondent has rightly passed the impugned order rejecting the contention of the petitioner that G.O.Ms.No.107 dated 01.11.2007 is not applicable; therefore, there are no merits and the writ petitions are liable to be dismissed.

6. This Court, having considered the submissions of learned counsel for respective parties, is of the considered view that the impugned orders passed by the 1st respondent nowhere disclose that the authority has examined the case and records properly. Further, the impugned orders were passed without giving a finding whether the petitioner, who is executing the contract of KTPS, is registered under

the Factories Act or not and the 1st respondent has not even perused the agreement of contract entered between the petitioner and the 3rd respondent and, without verifying these aspects, the 1st respondent had straight away given a finding that G.O.Ms.No.107 dated 01.11.2007 has application even in respect of construction works undertaken by the 3rd respondent. Since no reasons are assigned based upon the records, the impugned orders are liable to be set aside.

7. Accordingly, the writ petitions are allowed setting aside the impugned orders. The matters are remanded to the 1st respondent for adjudication afresh by examining the entire record and after giving opportunity to both parties, within a reasonable period of time, preferably within two months from the date of receipt of a copy of this order. No order as to costs.

Pending miscellaneous petitions, if any, shall stand dismissed.

ABHINAND KUMAR SHAVILI, J

18th September, 2019
v v