
(1992) 02 AP CK 0019

In the Andhra Pradesh High Court

Case No : Writ Petition No's. 6235, 6236 and 6363 of 1988

Bencdict

APPELLANT

Vs

Prashant Cinema Air Cooled and Others

RESPONDENT

Date of Decision : 03-02-1992

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1992) 1 ALT 430 : (1992) 1 AnWR 340

Hon'ble Judges : P. Venkatarama Reddy, J

Bench : Single Bench

Advocate : C. Suryanarayana Rao, for M. Markandaya, for the Appellant; P. Sri Raghuram, for the Respondent No. 1, for the Respondent

Final Decision : Allowed

Judgement

P. Venkatarama Reddy, J.—The order questioned in the present Writ Petitions is the order of the Labour Court in Second Appeal Nos. 34, 35, 39, 41, 42 and 45 of 1982 dated 31-12-1985 in so far as the said order is against the Petitioners-workmen. The Labour Court confirmed the order passed by the Assistant Commissioner of Labour, City Circle-II, Hyderabad, acting an authority under the A.P. Shops and Establishments Act and dismissed the Appeals of the Management. The Labour Court held that the domestic enquiry conducted against the workmen was not valid in law and that the management did not seek for an opportunity to adduce evidence. The Labour Court agreed with the Shops and Establishments Authority that reinstatement need not be ordered despite the invalidity of the termination orders and held concurring with the view of the said authority that 30 month's compensation is proper. No holding, the three appeals filed by the management and the three other appeals filed by the workmen were dismissed by a common order. It is against this, the present writ petitions have been filed by the petitioners-workmen.

2. The learned Counsel for the petitioners Mr. C. Suryanarayana Rao (Appearing for Mr. M. Markandaya) relying upon the decisions of the Supreme Court has

submitted that the Shops and Establishments Authority as well as the Labour Court have not given any relevant reasons for the deviation from the normal rule of reinstatement and that the Management had not adduced any material before the respondents-authorities to establish that the relief of reinstatement ought not to be granted in the circumstances of the case. In any case, the learned Counsel submits that the compensation awarded is grossly inadequate and that the petitioners are legitimately entitled to at least 10 years pay as compensation if not more.

3. The petitioners were terminated from service in the year 1981. Now nearly 10 years have elapsed since that event took place. The Tribunals below have stated that the theatre of the first respondent is a small establishment and most probably arrangements would have been made by the Management to fill up the vacancies. It is difficult at this stage to interfere with the discretion exercised by both the Tribunals. Moreover, the reasonable inference that could be drawn from the undisputed facts of the case is that the relationship between the petitioners and the management was very much strained leading to filing of Original Cases against the petitioners for assaulting the Manager and the conviction by the Criminal Court in the first instance. No doubt, the petitioners were eventually acquitted, but, in the back ground of the events, it is unfair and improper to trust the petitioners on the management at this distance of time. Hence, I am not proposed to interfere with the concurrent findings of the Tribunals that re-instatement is not warranted in the facts and circumstances of the cases. I am unable to say that the discretion exercised by the Tribunals is improper or irrelevant. However, I am of the view that the compensation awarded is highly inadequate and it is a fit case that this Court is exercising its jurisdiction under Article 226 of the Constitution should award appropriate compensation to the petitioners. 30 months compensation amount was ordered by the Shops and Establishments authority and the same was confirmed by the second respondent. The same was arrived at by taking into consideration the gratuity retrenchment compensation payable and also the back wages. Thus, very little was given towards compensation for loss of employment. That apart, It is relevant to notice that the Management failed to pay the amount awarded so far though the order was passed by the third respondent in the year 1984. There is not even an acceptable explanation for this inaction on the part of the management to tender or deposit the amount awarded to the petitioners. If the amount of compensation was paid to the petitioners at that time, they could have utilised the said amount in a profitable manner. The interest for unpaid compensation amount comes to nearly double the amount. Taking all these considerations into account I direct the fixation of compensation amount in lieu of re-instatement at an amount equivalent to 70 months last drawn pay and allowances that were being paid to the petitioners. This amount has to be paid within two months. If the said amount is not paid by the first respondent within the period of two months from to-day, it is open to the petitioners to have respondents 2 and 3 to institute coercive action for realisation of the compensation amount hereby awarded.

4. The Writ Petitions are allowed to the extent indicated above. There shall be no order as to costs.