

THE HONBLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.13445 of 2006

ORDER :

Heard Sri P.Durga Prasad, learned counsel appearing for the petitioner corporation, learned counsel for respondent No.1 and learned Government Pleader for Labour. Perused the material available on record.

The present writ petition came to be filed to call for the records relating to the Award dated 14.07.2005 passed in I.D.No.159 of 2004 by the Presiding Officer, Labour Court, Guntur.

The facts in brief are that the 1st respondent herein was appointed as Conductor on 03.02.1981 in the petitioner corporation. While the 1st respondent was working as a Conductor, a complaint was lodged against him alleging that he produced bogus education certificate at the time of his appointment. The Vigilance and Security Officer conducted investigation and submitted a report stating that the education certificate produced by the 1st respondent was bogus. After framing a charge, domestic enquiry was conducted and after hearing the 1st respondent, he was removed from service with effect from 11.06.2004.

Challenging the same, the 1st respondent filed I.D.No.159 of 2004. By order dated 14.07.2005, the Labour Court, Guntur partly allowed the said I.D and set aside the order of removal of respondent No.1 herein from service and directed the petitioner to reinstate the 1st respondent into service without back-wages, but with continuity of service and notional increments were also directed to be given for the period of out of service i.e. from the date of removal till the date of reinstatement. Challenging the

said I.D., the petitioner corporation filed the present writ petition.

Learned counsel for the petitioner corporation submitted that the Vigilance and Enforcement Wing found that the 1st respondent submitted a fake document for the purpose of securing employment. It is further submitted having held that the 1st respondent has committed the offence, the Court below ought to have upheld the findings of the Enquiry Officer. In any view of the matter, learned counsel for the petitioner corporation submitted that the punishment imposed on the 1st respondent does not commensurate with the offence committed by him.

Learned counsel for the 1st respondent submitted that there is no material to establish that respondent No.1 herein has produced fake certificate; and hence, the Court below by considering the material on record allowed the I.D in part. Therefore, it is contended that the findings recorded by the Court below warrants no interference by this Court.

It is clear from the record that neither the 1st respondent nor the petitioner corporation adduced any oral evidence, but however, the petitioner corporation marked Exs.M.1 to M.57 in support of their case.

A perusal of the record would show that during enquiry no witness was examined to prove that the 1st respondent submitted fake certificate at the time of his appointment. Though the 1st respondent has not produced any evidence to show that the certificate produced by him is genuine, the petitioner corporation ought to have adduced some evidence to prima facie establish their case. The labour Court found that the 1st respondent was not in a position to say about his education viz. where he studied and when he obtained the said certificate. That being the position a

doubt arises with regard to the education certificate produced by the 1st respondent, but however held that the petitioner corporation ought to have enquired about the said certificate at the time of his appointment. It is to be noted that the petitioner was appointed in the year 1981 and the complaint about producing false education certificate was made in the year 2002. At this point of time, the 1st respondent may not be in a position to give details of his education. Therefore, labour Court held that the petitioner corporation ought to have enquired about the educational certificate of the 1st respondent at the time of making appointment or a little later instead of taking such a harsh stand after 21 years of service. It is now brought to the notice of this Court that in the absence of any interim order, the 1st respondent continued in service and retired on 31.08.2012.

Having regard to the above circumstances, I am of the view that the discretion exercised by the labour Court in partly allowing the I.D warrants no interference.

Accordingly, the writ petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

Date: 19.11.2015

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