

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

WRIT PETITION Nos.12585 of 2004 and 1229 of 2005

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WRIT PETITION No.12585 of 2004

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Between:

The Chief Executive and Disciplinary
Authority Nuclear Fuel Complex, Hyderabad

...Petitioner

and

Shri M.Ramesh

...Respondent

DATE OF JUDGMENT PRONOUNCED: 03.09.2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? Yes/No
2. Whether the copies of judgment
may be marked to Law Reporters/Journals? Yes/No
3. Whether Their Ladyship/Lordship wish to
see the fair copy of the Judgment? Yes/No

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION Nos.12585 of 2004 and 1229 of 2005

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COMMON ORDER:

Both these Writ Petitions arise in the context of the Award dated 10.03.2004 passed by the Central Government Industrial Tribunal-cum-Labour Court at Hyderabad in L.C.I.D.No.71 of 2002. Challenging the relief granted there under, the Management of the Nuclear Fuel Complex, Department of Atomic Energy, Government of India, filed Writ Petition No.12585 of 2004. Aggrieved by the denial of back wages and other benefits there under, the workman filed Writ Petition No.1229 of 2005.

By order dated 21.07.2004 passed in WPMP.No.16017 of 2004 in Writ Petition No.12585 of 2004, this Court granted interim suspension of the impugned Award. Thereafter, by order dated 07.02.2005, this Court made the said order absolute subject to the Management complying with the provisions of Section 17-B of the Industrial Disputes Act, 1947.

It is stated that the above order is being complied with.

Though these matters were listed for hearing before this Court on 02.09.2005 and arguments were advanced by Sri Raghavender, learned counsel representing Sri B.Narayana Reddy, learned Assistant Solicitor General for India, appearing for the petitioners in Writ Petition No.12585 of 2004, there was no representation for the workman. The matters were accordingly adjourned to today. However, when the matters were taken up for hearing during the pre-lunch session, there was again no representation for the workman and arguments were concluded by Sri Raghavender, learned counsel. The matters were accordingly passed over to enable the learned counsel appearing for the workman to advance his arguments. Despite opportunity being granted time and again, Sri T.K.Sridhar, learned counsel for the workman, did not choose to appear before this Court. This Court is therefore left with no option but to adjudicate the matter without hearing the learned counsel for the workman.

The workman was appointed as a Tradesman 'A' in the Nuclear Fuel Complex in the year 1979. He was removed from service with effect from 12.08.1997 on the ground of unauthorized absence from 23.10.1996 to 29.10.1996 and again from 06.11.1996 to 16.04.1997. Aggrieved thereby, the workman filed an appeal on 27.09.1997. The said appeal was dismissed by the

appellate authority by order dated 13.01.1998. He thereupon invoked the jurisdiction of the Labour Court under Section 2-A(2) of the Industrial Disputes Act, 1947.

The workman examined himself as WW.1 while the Management examined the Administrative Officer of the Nuclear Fuel Complex as MW.1. 11 documents were marked in evidence by the workman and 24 documents were marked by the Management. Upon consideration of the evidence and the material on record, the Labour Court adverted to the fact that no domestic enquiry had been conducted in the case to find out whether the absence was genuine or not. The Labour Court also took note of the fact that under explanation dated 15.06.1997, the workman had categorically admitted the articles of charge framed against him and opined that perhaps, no enquiry was conducted due to this. Having held so, the Labour Court observed that the principles of natural justice still demanded that the workman should have been given a chance by holding a regular enquiry. On this basis, the Labour Court found justification to interfere and directed the reinstatement of the workman in service without back wages.

Sri Raghavender, learned counsel, pointed out that in response to the Memo of Charges (Ex.M.5) dated 16.05.1997, the workman submitted his explanation under Ex.M.24 (the original - Ex.M.20) which is dated

15.06.1997 wherein, he categorically admitted the charge of unauthorized absence during the period in question. Though before the Labour Court, the workman denied that he had given Ex.M.20/M.24, it is relevant to note that in the grounds of appeal dated 27.09.1997, his first statement was that it was true that he remained absent from 23.10.1996 to 29.10.1996 and 06.11.1996 to 16.04.1997 unauthorizedly. The workman therefore unequivocally admitted his unauthorised absence for the period in question. Once he admitted the charge against him, the question that arises is whether an enquiry is still required to be held in the case.

Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, deals with the procedure for imposing major penalties. Rule 14 (5)(a) states to the effect that where all the articles of charge have been admitted by the Government servant in his written statement of defence, the disciplinary authority shall record its finding on each charge after taking such evidence as it may think fit and shall act in the manner laid down in Rule 15.

In the present case, the disciplinary authority, having adverted to the explanation dated 15.06.1997 (Exs.M.20 and M.24) whereby the workman admitted the charge, went on to discuss the matter on its merits duly referring to the documentary evidence and thereafter imposed the

major punishment of dismissal from service. Secondly, in his appeal, the workman did not deny or dispute the fact that he had admitted the charge in his explanation dated 16.05.1997 (Exs.M.20/M.24). The appellate authority, by its detailed order 13.01.1998, discussed the case at length and having found no merit therein dismissed the appeal.

The Labour Court also did not find any reason to disagree with the findings arrived at by the disciplinary and the appellate authorities on the charges framed against the workman. However, overlooking the statutory scheme as to what was to be done in a matter where the charged employee admits the charge, the Labour Court granted relief to the workman on the short ground that an enquiry ought to have been conducted. Logically, if the charged employee admits the charges levelled against him, there is no necessity for holding an enquiry for the purpose of establishing the same once again by way of independent evidence. To do so would be an exercise in futility as the charged employee himself admitted his guilt. Therefore, the failure on the part of the Management in holding an enquiry owing to the admission of the workman cannot be found fault with. As that was the only reason for interference by the Labour Court, the relief granted by it to the extent of directing reinstatement of the workman without back wages cannot be sustained. As the workman

was not entitled to any relief, his endeavour to seek further reliefs by way of Writ Petition No.1229 of 2005 cannot be countenanced.

Writ Petition No.12585 of 2004 is accordingly allowed quashing the Award dated 10.03.2004 passed by the Central Government Industrial Tribunal-cum-Labour Court at Hyderabad in L.C.I.D.No.71 of 2002.

Writ Petition No.1229 of 2005 shall stand dismissed.

Pending miscellaneous petitions, if any shall also stand dismissed. No order as to costs.

SANJAY

KUMAR, J

3rd SEPTEMBER, 2015.

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