

THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

WRIT PETITION No.25452 of 2000

ORDER:

The present writ petition came to be filed challenging the award dated 14.08.2000, passed in ID No.168 of 1996 on the file of the Chairman, Industrial Tribunal-cum-Labour Court, Godavarikhani.

The facts in issue are as under:

The second respondent herein was appointed on compassionate grounds after the voluntary retirement of his father on health grounds. The second respondent worked from 06.04.1995 to 19.12.1995 as Badlifiller on piece rate wage against absenteeism vacancies of fillers. On 18.06.1985, an office order came to be issued in favour of the respondent herein with a condition that his employment in the company would be subject to verification of antecedents and if adverse reports are received from the police authorities, his appointment is liable to be cancelled. He was directed to report before the company on or before 30.06.1995. The second respondent joined the company and was working to the satisfaction of the officers. While things stood thus, the Superintendent of Police sent a letter dated 19.12.1995, to the General Manager, Ramagundam Area-I, with regard to the character and antecedents of the second respondent. It is stated in the report that the second respondent was involved in Crime No.236 of 1991, registered for the offences punishable under Sections 148, 324 read with Section 149 of IPC of GDK-I Town Police Station. As per the letter, the second respondent herein and five others of SIKASA, affiliated to CPI ML PW group, way laid one Kurma Komuraiah and beat him with axes for not bringing his wife from his in-laws' house. The second respondent herein was arrested on 30.05.1992 and sent to judicial custody. It is specifically stated in the letter that a case is pending trial vide C.C.No.185 of 1992 and that the second respondent has links with extremists. Basing on the said letter, the second respondent was removed from service on 04.01.1996. Challenging the said removal, the

second respondent filed I.D.No.168 of 1996. The Labour Court, by its order dated 14.08.1996, allowed the I.D. as under:

“...In the result, this petition is allowed. The petitioner shall be reinstated into service as Badli filler with full backwages. The respondents shall pay an amount of Rs.1,000/- (One thousand rupees only) towards costs to the petitioner.”

Challenging the said award, the present writ petition came to be filed.

Learned counsel for the petitioner submits that since the very appointment of the second respondent was subject to condition of verification of antecedents by the police authorities and since the Superintendent of Police found that the second respondent was involved in a criminal case and that he has links with extremists, the order of termination does not warrants any interference. He relied upon the judgment of this Court in W.P.No.26737 of 1995 and also a Bench judgment of this Court in W.A.No.28 of 2000 in support of suspension.

In W.P.No.26737 of 1995, this Court while dismissing the writ petition made the following observations:

“...In view of the police verification report, if the petitioner was discharged from the service, the petitioner cannot take any exception to the same. It is true that release on probation, under the provisions of the Probation of Offenders Act, does not amount to conviction, yet, the very condition of appointment was subject to the police verification report. Termination of petitioner's service, in the instant case, is in keeping with the terms of the appointment order itself and, is not by way of punishment, as such.

The writ petition is meritless. Hence, dismissed.”

In view of the above, learned counsel for the petitioner would submit that the second respondent is not entitled for reinstatement, since the appointment itself is subject to condition of verification of his antecedents. As the police verification revealed that the petitioner was involved in a criminal case, the second respondent is not entitled to continue in the said post.

Per contra, learned counsel for the respondents would submit that the very police verification report submitted by the Superintendent of Police is without application of mind. He further submits that the judgment relied upon by the learned counsel for the petitioner would not apply to the case on hand as in the said case, the accused was

convicted, whereas, in the present case, the accused was acquitted, even before the report was sent by the police officer.

A perusal of the material placed before the Court would show that the second respondent was appointed on 18.06.1995, subject to verification of antecedents. It is specifically stated that if adverse reports are received from the police authorities, his appointment may be cancelled. The Superintendent of Police, Karimnagar, vide his letter dated 19.12.1995 in C.No.683/15/SB/VR, sent a report to the General Manager, Ramagundam Area-I, stating that the second respondent herein was involved in Crime No.236 of 1991 registered for the offences punishable under Sections 148, 324 read with Section 149 of IPC of GDK-I Town Police Station. In the said case, the second respondent and five others of SIKASA, affiliated to CPI ML PW group are alleged to have way laid one Kurma Komuraiah and beat him with axes for not bringing his wife from his in-laws' house. It is further stated that the second respondent was arrested on 30.05.1992 and sent to judicial custody. It is further stated in the letter that the police after investigation filed a charge sheet which was taken on the file as C.C.No.185 of 1992 and the same is pending. The records placed before the Court would disclose that much prior to the letter dated 19.12.1995, the second respondent herein was acquitted in the said criminal case i.e., on 09.10.1995. That being the position, it is strange as to how the Superintendent of Police, Karimnagar, in his letter dated 19.12.1995, can state that the said criminal case is still pending trial. If the actual facts were brought to the notice of the General Manager, the possibility of result being otherwise cannot be ruled out. Apart from that, a stray sentence is made stating that the second respondent is having links with extremists group. The same is without any basis. No evidence is adduced by the enquiry officer to show as to how and in what manner the second respondent is related to the extremists group. Learned counsel for the petitioner placed reliance on the letter dated 18.06.1996, issued by the Superintendent of Police, wherein, he referred to the acquittal of the accused in the said crime. As per the letter, the accused was

acquitted since the witnesses including the victim turned hostile. However, it was mentioned that the second respondent is still continuing links with the extremists. A perusal of the record would show that the said letter came to be issued after removal of the second respondent from the service. The averment in the said letter that the second respondent continues to have links with extremists has no basis. No material or circumstances are referred showing his contacts with extremists. The incident relied upon has nothing to do with extremist links. The second respondent is alleged to have committed offences punishable under Sections 148 and 324 read with Section 149 of IPC, for which he was alleged to have been arrested and detained in police station. It is to be noted that both these offences are bailable and as such, the question of detaining the second respondent would not arise. The Division Bench judgment of this Court in W.A.No.28 of 2000, which is relied upon by the learned counsel for the petitioner, is of no help to him. It is true that the appointment is conditional, but the facts in the writ appeal are entirely different from the case on hand. In the said case, the accused was convicted and the fact of conviction was referred to in the police report therein. Whereas, in the present case, the real facts were not brought to the notice of the appointing authority by the Superintendent of Police. As stated earlier, things would have been different, if the real facts were brought to the notice of the authorities.

Having regard to the circumstances stated above, it appears that the Superintendent of Police, Karimnagar, sent a report without making proper enquiry. When the report of the police officer is found to be lacking correct facts, the same cannot be made a basis to remove the second respondent from the job. Hence, the writ petition is liable to be dismissed and accordingly, the writ petition is dismissed. No costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

JUSTICE C.PRAVEEN KUMAR

Date : 27.08.2015
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