

HONOURABLE SRI JUSTICE M.S.K.JAISWAL

W.P.No.3322 of 2004

ORDER:

This Writ Petition is filed by the petitioner-workman challenging the award of the 1st respondent-Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad, dated 16.10.2003 in I.D.No.21 of 1999.

Brief facts of the case are that the petitioner was appointed as a worker in the 2nd respondent-company on 31.01.1978 and his services were confirmed with effect from 01.02.1979. The petitioner fell sick in October, 1991 and accordingly he sent intimation to the 2nd respondent stating that he was undergoing treatment for Tuberculosis. Thereafter, after recovery of his illness, he reported to duty in December 1992, but he was not allowed to join duty and that the 2nd respondent informed the petitioner that necessary intimation would be sent to him. In spite of submitting a representation and issuance of a legal notice, the 2nd respondent did not choose to give any reply. Hence, the petitioner-workman raised industrial dispute before the 1st respondent-Labour Court, in I.D.No.21 of 1999. The Labour Court, on a consideration of the entire evidence, both oral and documentary, passed an award dated 16.10.2003 dismissing the said I.D. Aggrieved by the same, the

petitioner-workman filed the present writ petition.

Heard learned Counsel appearing on either sides and perused the material available on record.

Before the 1st respondent-Labour Court, the writ petitioner was examined himself as W.W.1 and got marked Exs.W1 to W3. He categorically stated in his evidence that he informed to the 2nd respondent about his sickness by registered post with acknowledgment due. Ex.W1 is the registered postal receipt. Ex.W2 is the Xerox copy of the order dated 25.10.1986 promoting the petitioner as Operator Detenator. Ex.W3 is the Xerox copy of medical certificate dated 25.11.1992 issued by Dr.K.Ashok, Assistant Professor, Osmania General Hospital, who certified that the petitioner was suffering from Tuberculosis from 10.08.1991 to 20.11.1992 and that he was not able to attend duty for the said period.

On behalf of the 2nd respondent-Management, no oral evidence was adduced, but marked Exs.M1 to M23. Ex.M1 is the letter sent by the petitioner to the 2nd respondent on 28.01.1998, but it did not contain the signature of the petitioner, wherein it is stated that due to ill-health he was on leave since 20.10.1991; thereafter he has not submitted any leave letter; recently he came to Hyderabad and that he may be permitted to join duty as he is having good health. Ex.M2 is the internal communication of the 2nd respondent-Management,

which shows that the petitioner was a chronic absentee and in pursuance thereof Ex.M3-telegram dated 31.12.1991 was sent to the petitioner to report for duty. Ex.M4 is the letter dated 02.01.1992 sent by the wife of the petitioner to the 2nd respondent-management stating that the petitioner was fell sick seriously; undergoing treatment in local hospital and as he has not recovered from illness, he was taken away to Delhi for better treatment. Ex.M5 is the similar letter dated 05.02.1992 regarding absence of the petitioner. Ex.M6 is also a telegram dated 07.02.2002 sent to the petitioner to report for duty. Ex.M7 is also the letter dated 11.02.2002 received from the petitioner's wife. Ex.M8 is the letter dated 15.02.1992 addressed to the petitioner informing him to appear before the Medical Officer of the company. Ex.M9 is the letter, which was returned unserved on the petitioner. Ex.M.10 is the letter dated 11.03.1992 sent by the Medical Officer to the 2nd respondent. Ex.M11 is the letter dated 26.07.1992 stating that the petitioner did not report for duty. Ex.M12 is the returned cover containing the charge sheet Ex.M13. Exs.M14 and 15 are the publications dated 21.10.1992 of the charge sheet in Deccan chronicle and Siasat Urdu newspapers. Ex.M16 is the absenteeism particulars of the petitioner. Ex.M17 is the proceedings of the Enquiry Officer. Ex.M18 is the enquiry report. Ex.M19 is the returned postal cover issued to the petitioner. Ex.M20 is the paper publication

dated 24.11.1992 of Deccan Chronicle containing show cause notice. Ex.M21 is the paper particulars of Siasat containing show cause notice. Ex.M22 is the dismissal order dated 18.12.1992 passed by the 2nd respondent-Management and Ex.M23 is the postal receipt.

On the other hand, Ex.M4 dated 02.01.1992 and Ex.M7 dated 11.02.2002 clinchingly disclose that the petitioner was undergoing treatment at Delhi, whereas Ex.W3-xerox copy of the medical certificate dated 25.11.1992 discloses that the petitioner was undergoing treatment at Hyderabad from 10.08.1991 to 20.11.1992. The documents Exs.M2 to M23 filed by the 2nd respondent-management clinchingly disclose that the 2nd respondent had taken steps to serve charge sheet, enquiry notice, enquiry proceedings and also enquiry report on the petitioner and in spite of best efforts made by the 2nd respondent, the petitioner did not turn up either before the Medical Officer of the 2nd respondent or before the Enquiry Officer. Therefore, the petitioner cannot plead that he has not afforded reasonable opportunity of hearing before passing the dismissal order by the 2nd respondent-Management. Admittedly, the petitioner did not report to duty for a period of 301 days and that he has not obtained any prior permission nor submitted any leave letter to the 2nd respondent. Further, the petitioner failed to establish that he was prevented by the 2nd respondent-

management from discharging his duty.

In the light of aforementioned reasons, I am of the considered view that the reasoning assigned by the learned 1st respondent-Tribunal is quite legal and justified and, therefore, I do not find any reason to interfere with the impugned award passed by it.

The Writ Petition, therefore, fails and is accordingly dismissed upholding the impugned award dated 16.10.2003. No order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

M.S.K.JAISWAL, J

17-12-2015
Gsn