

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.25043 of 2016

ORDER:

This writ petition was filed challenging the award in I.D.No.21/2013 dated 07.11.2015 passed by the Industrial Tribunal-cum-Labour Court, Godavarikhani.

Respondent No.2 was appointed as Badili Filler on 25.11.1970 and he was regularised as Coal Filler. He remained absent during the year 1999 and he put in only 70 musters. He was issued a charge sheet on 19.03.2000 for his habitual absenteeism, but he did not submit any explanation. As per the Standing Orders, he is supposed to put in a minimum of 190 musters in a calendar year. During 1996 to 2000 (upto April) he did not achieve the minimum musters. Though a similar charge was levelled against the petitioner in the year 1998 and the charge was held proved, a lenient view was taken and a punishment of 10 days suspension from duty was imposed with an advice to improve attendance. When he did not improve his attendance, a fresh charge sheet was issued in the year 2000 for poor performance during the year 1999. An enquiry was conducted on 05.04.2000 and the petitioner accepted the charges levelled against him by affixing thumb impression. A show cause notice was issued on 21/27.04.2000, along with the copy of enquiry report, giving opportunity to the petitioner to submit a

representation, but he failed to submit any representation. In those circumstances, an order of dismissal from service with effect from 13.06.2000 was passed by order dated 11.06.2000. Though a provision for appeal was available, he did not prefer the appeal. But, after lapse of 13 years, he filed I.D.No.21/2013. In the said Industrial Dispute, an award was passed setting aside the order of dismissal dated 11.06.2000 holding that the petitioner was deemed to have retired from service voluntarily with effect from 13.06.2000. Challenging the said award dated 07.11.2015, the present writ petition was filed.

The only point raised in the present writ petition is with regard to the right of respondent No.2 to file I.D.No.21/2013 after lapse of 13 years.

Though a specific ground was taken raising the Bar of limitation in the counter filed on behalf of respondent No.1, the Labour Court neither framed the point with regard to the limitation nor decided the same. In the circumstances, after going through the award, this Court is satisfied that the Labour Court has not decided the said point of limitation.

Accordingly, this Writ Petition is allowed on the point of non-consideration of the point of limitation and the matter is remanded to respondent No.1 for consideration of the issue afresh within a period of three (3) months from the date of receipt of a copy of the order. No order as to costs.

It is needless to observe that respondent No.2 shall be heard while deciding the said issue by the Labour Court. However, this order of remand does not entitle the petitioner herein to withhold the gratuity payable to respondent No.2 in accordance with law.

Miscellaneous Petitions pending, if any, shall stand closed.

A.RAMALINGESWARA RAO, J

19.09.2016
MVA

