

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.4484 of 2003

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India for the following relief:

“to issue writ, order or directions more in the nature of Writ of Certiorari calling for the records pertaining to L.C.I.D.No.34/2001 on the file of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad and quash the award in L.C.I.D.No.34/2001 on the file of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad to the extent it has gone against the petitioner in not awarding back wages and continuity of service and further direct the Respondents 1 to 3 to pay the last drawn wages from 22-3-2002 to 10-12-2002.”

Heard, Sri S.A.V. Ratnam, learned counsel for the petitioner and Sri J. Srinivasa Rao, learned Standing Counsel for the respondents.

On the ground of absenteeism the petitioner herein was issued a charge sheet by the disciplinary authority, which eventually culminated in the order of dismissal. Assailing the validity of the said order of dismissal, the petitioner herein approached the Central Government Industrial Tribunal – cum – Labour Court, Hyderabad under the provisions of

Section 2A (2) of the Industrial Disputes Act, 1947. The Tribunal by way of an award, dated 22-02-2002 directed reinstatement of the petitioner as Fitter, which was the post he was holding at the time of dismissal while denying the back wages and continuity of service.

Apart from challenging the validity of the said award passed by the Tribunal in L.C.I.D.No.34/2001, to the extent the same went against the petitioner herein is praying for a direction to the respondents to pay the back wages from 22-03-2002 to 10-12-2002.

According to the learned counsel for the petitioner, the punishment imposed by the Disciplinary Authority is very harsh and not in commensurate with the charges framed against him. It is also submitted by learned counsel that the Tribunal ought to have granted continuity of service and back-wages also. It is further submitted that without assigning any valid reasons the Industrial Tribunal refused the reliefs of back-wages and continuity of service. It is also submitted by learned counsel that the respondents herein ought to have paid the wages for the period from 22-03-2002 to 10-12-2002 i.e., from the day next to the order passed by the Tribunal and till one day prior to the order of reinstatement.

On the contrary, it is vehemently contended by learned Standing Counsel for the respondents that there is no

illegality in the impugned award passed by the Tribunal and the same is in accordance with the provisions of the Industrial Disputes Act, 1947. It is also the submission of learned Standing Counsel that since the respondents received the copy of the award passed by the Tribunal on 02-09-2002 and as the petitioner was reinstated into service on 19/26-09-2002, the petitioner herein is not entitled for any wages for the period as sought in the writ petition.

In the above backdrop, now, the issues which this Court is called upon to answer in the present writ petition are:

1. *Whether the award passed by the Tribunal is in accordance with law or whether the same requires any correction by this Court under Article 226 of the Constitution of India?*
2. *Whether the petitioner herein is entitled for the wages for the period 22-03-2002 to 10-12-2002?*

A perusal of the award passed by the Tribunal in clear and un-equivocal terms discloses that only after elaborately considering and meticulously appreciating various aspects including the conduct of the petitioner, the Tribunal directed reinstatement of the petitioner without back-wages and continuity of service.

As held by the Hon'ble Apex Court in case of **Syed Yakoob v. K.S. Radhakrishnan and others**¹, unless the order impugned suffers from patent perversity the same

¹ AIR 1964 SC 477

cannot be interfered with under Article 226 of the Constitution of India.

In view of the same and in the absence of any perversity, this Court is not inclined to meddle with the well-articulated order passed by the Tribunal. Therefore, the issue No.1 is answered in favour of the respondents and against the petitioner.

Coming to point No.2 i.e., whether the petitioner is entitled for the wages for the period from 22-03-2002 to 10-12-2002 i.e., from the date of award till the date of reinstatement, it is to be noted that Award in the instant case is not an *ex parte* award.

On the other hand, the Tribunal after elaborately considering all the contentions and the material available on record, by way of an Award, dated 22-02-2002 directed reinstatement of the petitioner without back-wages and continuity of service.

It is the submission of learned counsel for the petitioner, while reiterating the averments in the affidavit filed in support of the writ petition, that since the respondents received copy of the order on 02-09-2002 and as the petitioner was reinstated by way of an order, 19/26-09-2002 and as he was found fit on a subsequent date, he is entitled for the wages from the Award.

As stated supra, the award in the instant case is not an *ex parte* award and in fact the same was passed after giving opportunity to the respondents. Therefore, this Court does not find any justification on the part of the respondents in denying the back-wages for the period from 22-03-2002 to 10-12-2002.

Accordingly, point No.2 is answered in favour of the petitioner and against the respondents.

For the aforesaid reasons, the writ petition is partly allowed, confirming the Award, dated 22-02-2002 passed by the Central Government Industrial Tribunal – cum – Labour Court, Hyderabad in L.C.I.D.No.34 of 2001 and further directing the respondents to pay wages to the petitioner for the period from 22-03-2002 to 10-12-2002. There shall be no order as to costs.

The Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

A.V. SESA SAI, J

November 02, 2016

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