

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 19341 OF 2006

ORDER:

In this Writ Petition, the Award dated 13.03.2006 in I.D. No. 73 of 2004 on the file of the Labour Court-III, Hyderabad is under challenge, at the instance of the erstwhile Andhra Pradesh State Road Transport Corporation (for short, 'the Corporation').

The case of the petitioner Corporation is that, since the respondent – workman, while working as the driver at *Gadwal* Depot, unauthorizedly absented himself from duties from 04.12.1997 to 24.01.1998, a charge sheet was issued to him. The workman neither submitted his explanation nor responded to the enquiry notice. Therefore, the enquiry was conducted *ex parte* and a report to that effect was issued holding the workman guilty of the charge framed against him. Pursuant to the said report, he was removed from service *vide* order dated 22.04.1998. Six years thereafter, the workman raised I.D. No. 73 of 2004, wherein, the 1st respondent - Labour Court – III, Hyderabad, through the order impugned, directed the Corporation to pay Rs.75,000/- towards compensation in lieu of his reinstatement. Hence, this Writ Petition is filed disputing the Award principally on the ground that compensation will be awarded where the workman was terminated illegally, but not in a case of this nature.

Learned Standing Counsel for the petitioner Corporation *Sri B. Mayur Reddy* vehemently contends that the Labour Court having found that the workman has no interest in the employment, ought not to have directed the Corporation to pay Rs.75,000/- as compensation. According to him, the High Court, under Article 226

of the Constitution, can interfere with the Awards where the Labour Courts exercise their powers under Section 11-A of the Industrial Disputes Act, 1947 Act (for short, 'the Act') arbitrarily. This Writ Petition is one which questioned the arbitrary exercise of the jurisdiction by the Labour Court in awarding compensation to the workman in lieu of reinstatement, hence, the learned Standing Counsel requests that the Award dated 13.03.2006 be set aside.

On the contrary, learned counsel appearing for the respondent workman submits that this case sets an example for violation of the principles of natural justice. At no stage, the respondent workman was served with either notice or enquiry report, which was drawn *ex parte*. The learned counsel further submits that considering his health condition, though he is entitled to be reinstated into service, the workman had accepted monetary compensation of Rs.75,000/-, which cannot now be said as arbitrary exercise. Submitting so, he prays for dismissal of the Writ Petition or in the alternative, seeks to remand the matter to the Labour Court for its consideration afresh.

Having heard the learned counsel on either side and having considered the material available on record, it is discernible that though the respondent - workman received the charge sheet, he did not submit any explanation thereto. There is no whisper even as to his seeking permission from the Depot Manager, nor is there any material as to his submitting any application seeking leave for the absented period. In those circumstances, as rightly held by the Labour Court, there is no infirmity in the domestic enquiry. The respondent workman neither filed any appeal nor revision petition against the order of his dismissal from service. More over, the

Industrial Dispute itself came to be filed after a lapse of six years of the dismissal of the workman. Further, it was recorded by the Labour Court that on the previous occasion, in 1996, the respondent was removed on the ground of 'absenteeism'. Hence, it believed the version put-forth by the Corporation that the workman is a chronic absentee. Yet, the Labour Court had chosen to award compensation of Rs.75,000/-, ostensibly, in lieu of reinstatement. The conduct narrated and as found by the Labour Court leaves no manner of doubt that the respondent workman was not interested in discharging his duties.

The plea taken by the workman as regards the ill-health also did not enure to his benefit, since there was no material to vouchsafe the said fact. In those circumstances, awarding monetary compensation in the purported exercise of the jurisdiction under Section 11-A of the Act, which empowers the Labour Court to decide with respect to the proportionality of punishment is nothing but abuse of power. Directing the monetary compensation in the present set of facts would only amount to giving a premium to the delinquent employee for his absenteeism. Hence, the so-called exercise of power under Section 11-A of the Act is totally unsustainable.

The order dated 13.03.2006 is therefore, set aside. The Writ Petition accordingly stands allowed. No costs.

Consequently, the miscellaneous Applications, if any shall stand disposed of.

CHALLA KODANDA RAM, J

27th December 2016

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