

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.1616 of 2016

Dated : 21.01.2016

Between:

Biyyala Anjaiah, S/o.Laxmaiah,
Hindu, aged about 51 yrs,
Occu : General Mazdoor,
R/o.Quarter No.D43-A, Station Road Colony,
Bellampalli, Adilabad District.

.. Petitioner

And

The Singareni Collieries Company Limited,
Rep., by its Chairman and Managing Director,,
Singareni Bhavan, Red Hills,
Post Box No.18, Khairatabad P.O,
Hyderabad-500004 & 3 others.

.. Respondents

This Court made the following :

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ORDER :

The petitioner is a General Mazdoor. Disciplinary proceedings are initiated against him vide charge sheet dated 10.12.2015. The substance of the allegation is that the petitioner falsely deposed before the Civil Court in a suit instituted by a person claiming himself to be adopted son of Late Earla Lingaiah, which resulted in a decree being passed by the civil Court and the terminal benefits accrued to the account of late Earla Lingaiah were paid to the said person who is not entitled to. The petitioner knowingly made false statements resulting in illegal payment of terminal benefits to ineligible person. Holding that the allegations made against him are grave, he is also placed under suspension with effect from 14.12.2015. The petitioner filed his initial explanation on 18.12.2015 and supplemental/additional explanation on 05.01.2016. Challenging the impugned proceedings dated 10.12.2015, this writ petition is filed.

2. Learned counsel for the petitioner contends that what is alleged in the charge sheet is directly relatable to the alleged deposition given by the petitioner in O.S.No.26 of 2009 on the file of Senior Civil Judge, Asifabad. The subject matter being a civil dispute, and even assuming that the petitioner has made any deposition, it is for the competent Court to consider the same and it is for the aggrieved parties to challenge the same. But an employer cannot take disciplinary action on the said allegation. Learned counsel further contends that petitioner has not made any such deposition before the civil Court and he would stand by his statement and support any action initiated by respondent-Company in this regard, if a false declaration is made by the claimant and illegally drawn the money accrued to the

account of Late Earla Lingaiah.

3. Learned counsel further contended that there is no justification to place the petitioner under suspension. Petitioner has neither committed theft nor played fraud nor his action was dishonest warranting placing the petitioner under suspension. The petitioner being a General Mazdoor, there is no scope for him to indulge in tampering of evidence. Therefore, suspension is unwarranted.

4. Learned Standing counsel vehemently opposed the claim of the petitioner. According to him prima-facie, material on record would support the action taken against the petitioner and therefore, no interference is called for.

5. It is not the case of the petitioner that the authority who initiated disciplinary proceedings is not competent. It is also not the case of the petitioner that suspension is made by incompetent authority. At the stage of framing of charge against an employee, what is required by the disciplinary authority is prima-facie satisfaction of the allegations leveled. It appears from the reading of charge sheet that petitioner gave deposition before the competent Court with reference to execution of Will in favour of the plaintiff therein. The plaintiff therein was claiming to be the adopted son and by virtue of the said Will, he is entitled to receive all terminal benefits accrued to the account of late Earla Lingaiah. The disciplinary authority alleges that petitioner gave a wrong statement and that the claimant is not the adopted son and that there could not have been adoption when the deceased employee had a daughter. The charge sheet also discloses that the deceased employee was survived by his wife and daughter and these facts were not brought before the competent Court and on account of the deposition given by him, decree was passed in favour of the plaintiff and based on the said decree, the amount was paid to a wrong person though such person is not entitled and in the said manner company is subjected to financial loss. The disciplinary authority views such action of petitioner as misconduct. Whether there is any justification in making such allegations and whether the petitioner has valid defence

is the subject matter of enquiry. At the stage of framing of charges, the disciplinary authority cannot weigh the pros and cons of the allegations. It is for the petitioner to submit his explanation and place all the relevant material before the disciplinary authority and it is for the disciplinary authority to consider the stand of the petitioner.

6. As the charge is based on prima-facie assumption of the disciplinary authority of the alleged mis-conduct, the Court cannot go into the merits of the allegations, appreciate the evidence on record and come to a conclusion even before the disciplinary proceedings are conducted and concluded.

7. According to the assessment of the disciplinary authority, the charges leveled against the petitioner are grave. Therefore, he is also placed under suspension. As the suspension is based on the material available on record, it cannot be said that the disciplinary authority has exceeded his jurisdiction and that there was no application of mind before placing the petitioner under suspension.

8. The petitioner has submitted his explanation on 18.12.2015 and also filed additional explanation on 05.01.2016. Having regard to the nature of allegations and the defence of the petitioner, justice would serve if the disciplinary authority is directed to conclude the disciplinary proceedings as expeditiously as possible, preferably within a period of six (6) weeks from the date of receipt of copy of this order subject to the petitioner cooperating with the disciplinary authority. For any reason, the disciplinary proceedings are not concluded and the delay in conclusion of the disciplinary proceedings is not attributable to the petitioner, the disciplinary authority shall review the suspension and shall consider the desirability of further continuation of the petitioner under suspension.

9. Subject to above directions, the writ petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand dismissed.

21st January, 2016.
Rds

P.NAVEEN RAO,J