

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

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WRIT PETITION No.30336 OF 2010
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ORDER:

This Writ Petition filed under Article 226 of the Constitution of India challenges the order dated 30.09.2010 passed by the Labour Court-III, Hyderabad, in I.D.No.184 of 2009.

2. Heard Sri M.Surender Rao, learned counsel, appearing for the petitioner and Sri K.Raghuveer Reddy, learned counsel, appearing for the first respondent, apart from perusing the material available on record.

3. Petitioner herein approached the Industrial Tribunal-cum-Labour Court, questioning the validity of the dismissal order dated 11.08.2004 and order of rejection dated 05.08.2008 passed by the opposite parties. The Management/First Respondent herein filed a rejoinder/counter and paragraph No.11 of the said counter reads thus:

"11. It is submitted that the Hon'ble Court may be pleased to decide the issue of validity of domestic enquiry conducted into the charge memo dated 27.02.2003 including the findings of the enquiry officer as a preliminary issue before proceeding further in the main I.D. It is submitted that without prejudice to the submissions made above, if the Hon'ble Court for any reason come to conclusion that the domestic enquiry conducted by the management is vitiated or the findings of the enquiry officer are perverse, the Management may be given an opportunity to adduce evidence on merits to prove the charges as per the charge memo dated 27.02.2003."

4. The Industrial Tribunal-cum-Labour Court passed an order dated 30.09.2010 on the validity of the domestic enquiry and held that the said enquiry as valid. Calling in question the validity and legal sustainability of the said order, the present writ petition came to be filed.

5. It is submitted by the learned counsel for the petitioner that the order passed by the Industrial Tribunal is erroneous and contrary to law and vitiated by total absence of any reasons for arriving at the conclusions. It is further submitted by the learned counsel that without recording any reasons, much less valid reasons, the Labour Court came to the conclusion that the domestic enquiry is valid.

6. On the contrary, it is submitted by the learned counsel appearing for the first respondent that there is no illegality in the impugned order, as such, the petitioner is not entitled for any relief from this Court under Article 226 of the Constitution of India.

7. In this connection, it may be appropriate to refer to the operative portion of the impugned order passed by the Labour Court, which reads as under:

“3. It is not the allegation of the petitioner that the principles of natural justice are not complied with either before domestic enquiry or during the domestic enquiry. A passing plea is taken by the petitioner disputing the validity of domestic enquiry and that therefore this Court has inevitably made the step to hear on validity of domestic enquiry. Having gone through the records including counter, it is learnt that the petitioner participated in the enquiry and offered his statement before the enquiry officer. In view of the above facts, it can be said that the principles of natural justice were complied in conducting domestic enquiry.”

8. A perusal of the above said order, in clear and vivid terms, demonstrates and discloses that except saying that ‘*having gone through the records including the counter*’, the Labour Court did not record any reasons for arriving at the conclusion with regard to the validity of the domestic enquiry. This, in the considered opinion of this Court, cannot be sustained in the eye-of-law.

9. In view of the above, writ petition is allowed, setting aside the order dated 30.09.2010 passed by the Industrial Tribunal-cum-Labour Court, Hyderabad and the Labour Court is directed to dispose of the

I.D.No.184 of 2009 and also adjudicate the validity of the domestic enquiry along with the same, within a period of three months from the date of receipt of a copy of this order.

10. Miscellaneous petitions pending consideration, if any, in the Writ Petition shall stand closed in consequence. No order as to costs.

A.V.SESHA SAI, J

21.01.2016

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