

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 7537 OF 2000

ORDER:

This writ petition is filed challenging the order dated 04.11.1999 passed by the Industrial Tribunal-cum Labour Court, Visakhapatnam, in I.D.No.243 of 1996.

Heard the learned counsel for the petitioner and the learned counsel for respondents 2 to 5.

The brief facts of the case are that respondents 2 to 5 were working as watchmen under the petitioner at District Stores, Bommuru. A Charge Memo was issued to them on 23.08.1989 alleging that on the intervening night of 03/04.08.1989, they committed theft of certain materials at the District Stores, Bommuru, and they were kept under suspension. Thereafter, an Enquiry Officer was appointed. The Enquiry Officer, after conducting enquiry, submitted his report holding that respondents 2 to 5 were responsible for the theft. Thereupon, a show cause notice was issued to them proposing to reduce the pay to the minimum of the time scale and to treat the period of suspension as not on duty. After considering the explanation submitted by respondents 2 to 5, the petitioner imposed the punishment of reduction of pay by five incremental stages and also treating the period of suspension as suspension only. Aggrieved by the same, respondents 2 to 5 approached the Labour Court and filed the aforestated I.D.

The Labour Court framed the following points for consideration:

1. Whether the management erred in holding that these workmen were guilty of not discharging their duties with diligence leading to loss of property of the management?
2. If finding is in favour of the workmen to what are the reliefs they are entitled to?

On appreciation of the material placed before the Labour Court, the Labour Court came to the conclusion that the enquiry itself was vitiated on account of the fact that the Enquiry Officer appears to have relied more on the reports submitted by various officials rather than the evidence adduced before him. The Labour Court recorded its findings as under:

“No doubt there is elaborate enquiry officer’s report showing about the property lost but to arrive at such conclusions about loss of property to satisfy this court or to satisfy the enquiry officer himself, about such loss is not shown by filing these relevant records submitted at the time of enquiry. Even the statements of the so called officers and employees recorded are not submitted for perusal of this court. So the material on the basis of the report, the conclusions drawn by the enquiry officer, while holding that there was loss of property and this workmen are responsible for loss of that property due to this lack of diligence in discharging their duties lending the theft of those property is not clearly established to come to the conclusions and noted in the enquiry officer’s report. No doubt, the Tribunal is not expected to deeply refer the validity of the enquiry officer report as such, but the material which made the enquiry officer to come to the conclusion and the procedure followed in holding the enquiry leading to drawing the conclusions which are important aspects, has to be considered by this court is giving finding whether the action taken by the management is really well founded or not, leading to awarding the punishment to the workmen. Hence it is held that there is no material in support to the enquiry officer’s report to come to the conclusions and obviously the conclusions are drawn only on the basis of the subordinate’s reports, rather than the personal verification of the records by the enquiry officer about the theft of so many items of property and that theft occurred on the intervening on 3rd and 4th August, 1989. Hence the findings are given against the management and in favour of the workmen.”

The entire discussion in the order of the Labour Court would point out that the Enquiry itself was vitiated. In those circumstances, and therebeing no material placed before this Court to come to a contra

conclusion, the writ petition does not deserve any consideration and the same is accordingly dismissed. No order as to costs.

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

CHALLA KODANDA RAM,J

Date: 03.07.2017
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