

HON'BLE SRI JUSTICE RAJA ELANGO

WRIT PETITION NO.7698 OF 2005

ORDER:

1. This Writ petition is filed challenging the order dated 6.12.2004 passed in I.D.No.71 of 2002 by the Labour Court-I, A.P., Hyderabad.

2. Brief facts of the case are as follows:

One K. Ramulu, who is the husband of the 1st respondent, worked as Peon in the petitioner-corporation. While he was working in the petitioner-Corporation, he died on 30.4.1987. The 1st respondent was given employment as peon on compassionate grounds. She joined duty on 1.8.1987. While so, House building advance of Rs.2,30,800/- was sanctioned to the 1st respondent and she withdrew 1st instalment amount of Rs.46,160/- on 18/3/1998, 2nd instalment of Rs.46,160/- on 1.4.1998, 3rd instalment of Rs.69,240/- on 18.4.1998 and 4th instalment amount of Rs.69,240/-. On the allegation that even though the 1st respondent purchased a house plot for an amount of Rs.17,000/- at Tallapaka village in Rajampet Mandal, Cuddapah District and she withdrew the subsequent instalments of house building advance on false and fabricated certificates, she did not construct a house thereon, enquiry was conducted and she was removed from service. The appeal filed by the 1st respondent was also rejected. Hence, the 1st respondent filed the above I.D. After considering the material on record, the Tribunal allowed the petition partly setting aside the removal order dated

30.9.1999. The petitioner is directed to reinstate the 1st respondent into service within one month from the date of publication of the award. It is ordered that the 1st respondent is entitled to full back wages and the same shall be paid within the same period, and that the 1st respondent is also entitled for continuity of service, but without attendant benefits for the break period. Aggrieved by the said award, the petitioner-Corporation filed this writ petition.

3. Heard and perused the material available on record.

4. Learned Counsel appearing for the petitioner submitted that the 1st respondent suppressed the material facts before the Labour Court and that the order of removal passed against her is strictly in accordance with the rules and that the punishment cannot be construed as that of disproportionate. He further submitted that the Labour Court has failed to consider the gravity of the irregularity committed by the 1st respondent and the material aspects in passing the award impugned herein and therefore, the award is liable to be set aside.

5. Learned Counsel appearing for the 1st respondent submitted that the award passed by the Labour Court is in accordance with law and it does not warrant any interference by this Court.

6. A perusal of the award impugned discloses that in the similar situated circumstances, Dhana Sekhar-driver, Suresh-Chamber attendant, Gopi Balakrishna-sanitary kalasi and Gajasingh-driver, attached to the Managing Director of the petitioner-Corporation also

availed the house building advance and that they were let off with minor penalty of stoppage of increment, whereas the major penalty of removal from service was imposed on the 1st respondent. It further discloses that the writ petitioner herein has failed to produce the explanation submitted by the 1st respondent before the Labour Court so as to know whether the above defence was taken in the explanation or not. It further discloses that the counter filed by the petitioner-Corporation before the Labour Court is silent as to whether the 1st respondent already cleared off the building loan, or whether the loan is kept pending or whether it was adjusted from out of the benefits of the 1st respondent. The award further discloses that the rules, under which the enquiry was conducted against the 1st respondent on the alleged allegation, have not been produced before the Labour Court so as to know whether the said rules have been followed strictly or not. During the course of enquiry, no other statement except the statement of the 1st respondent was recorded so as to know as to how the loan granted to the 1st respondent was diverted. It is further observed that though the petitioner-Corporation alleged that the 1st respondent obtained the loan against the guarantee of false and fabricated documents, but the Corporation failed to produce the same before the Labour Court so as to examine the veracity of the said documents.

7. For the reasons stated in the foregoing paragraphs coupled with the observations made by the Labour Court in the award impugned herein, this Court is of the view that action of the

petitioner-Corporation is arbitrary and discriminatory. Therefore, the award passed by the Labour Court does not warrant any interference by this Court.

8. Accordingly, the Writ Petition is dismissed. No costs. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

Justice Raja Elango

Dated: 15.9.2017

Nn/Tsr



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