

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 13030 of 2008

ORDER:

This writ petition is filed questioning the award passed by the Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad, in I.D.No.22 of 2004 dated 23.11.2006.

2. The impugned I.D. was filed by one Vincent D'Cruz-respondent No.1-workmen, who was initially appointed as a helper in the year 1974 and whose services were regularized thereafter. On 09.05.2002 respondent No.1 was alleged to have been caught leaving the depot with 23 Aluminium pieces. A domestic enquiry was conducted and petitioner was found guilty of the charges. Respondent No.1 filed appeal before the appellate authority, which ended up in dismissal and thereafter he moved the Labour Court. While the matter is pending before the Labour Court, respondent No.1 died and his legal representatives were brought on record vide orders in I.A.No.149 of 1996. On appreciation of the material on record the Labour Court found that in the domestic enquiry the crucial factum of a spot statement of one Ch.Lakshmaiah has not been proved and that the Corporation failed to bring any material to sustain the charge of attempt of theft. Holding that the charges leveled against respondent No.1 having not been proved the Labour Court dismissed the impugned ID by setting aside the order of the removal from service and to treat

the services of the workmen with continuity of service and all other attendant benefits except backwages. It was also observed that the Corporation shall consider to provide employment to the dependants subject to the Rules.

3. Heard learned counsel for the petitioner-Corporation and learned counsel for the respondents.

4. It is the specific contention of the respondent-workmen that the Labour Court found on appreciation of evidence as a case of no evidence. In this context the finding of the court below in the relevant paragraphs may be noted, which are extracted as under:

“14. The enquiry officer has examined one Syed Sadath who received report from Ch.Laxmaiah security guard who exercised the check. His name was not found place any where in the spot statement said to be given by the petitioner. The security guard submitted a report under Ex.M.1 to syed Sadath. His evidence shows that Ch.Laxmaiah submitted a report but the report said to be submitted by Ch.Laxmiah and the spot statement does not bear the signatures of the Syed Sadath in taken of receipt of the same and date time of the receipt. On the other hand in his report Ex.M.4 he referred the that the property was based and recorded the written statement of the petitioner before Satyanarayana and another person but the name of the second person was strike out and inserted the name of Mr.Baig. As seen from the report the signatures of the C.I.Ranigunj-I and M.S.Baig were inserted at the remoto corner of the alleged Ex.M.2 spot statement of the petitioner. As per the material it shows that the Ch.Laxmaiah gave report to the Sri Sadath but he did not mention when the received the report from Ch.Laxmaiah No initials were made by him on the petitioner statement and the report of the Ch.Laxmaiah on the other hand he delayed the matter to report to the Depot Manager as his report show that he submitted the report to the Depot Manager on 27.5.02. The material available on record that the

respondent obtained information in the form of letter under Ex.M.6. but it was dt.29.5.2002 along with true copy SP book of the abstract dated 26.5.2002 attested by the said Baig. but there is no proper reference about submitting the letter dt.29.5.2002 along with abstract dt.26.5.02. Nothing on record whether the Depot Manager called for any information in writing to that effect.

15. Originally the incident was alleged to be taken place on 26.5.02 but the report was submitted by the security Asst.Sub Inspector on 27.5.02 without disclosing the enclosures in his report Ex.M4 that too it was given to the DM on 25.6.02.

16. The enquiry officer examined the witnesses Sri Baig. Who has said to be attested on the spot statement of the petitioner as a witness in the domestic enquiry. But he did not state anything that he witnessed any offence said to be committed by the petitioner and he stated that he was in the garage and he was called to the main gate and when he had been there at the security wing near the main gate on the table a bag was kept with aluminum pieces and asked him to see it and when those items in the bag and stated that he does not know other reasons. He did not speak anything about the spot statement given by the petitioner nor it was confronted to him. The enquiry officer did not examine the other two persons who signed on the alleged spot statement of the petitioner. The alleged spot statement was not proved before the domestic enquiry as none spoken about it and who signed on it. Ch.Laxmaiah signature is not find place in the said report who spoken against the petitioner. Nothing was elicited from the statement of the petitioner during the domestic enquiry with regard to the charge leveled against him.”

5. A reading of the above discussion of the Labour Court, it is clear that the same does not require any further elaboration as the Labour Court did not fail to appreciate the material on record. In those circumstances, the impugned Award does not call for any interference. In terms of the Award the petitioner-Corporation shall consider providing employment to one of the dependants of the deceased in

terms of the policy invoked by implementing the award as expeditiously as possible preferably within a period of three months from the date of receipt of a copy of this order.

Writ petition is, accordingly, disposed of. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

January 6, 2017
LMV

JUSTICE CHALLA KODANDA RAM

