

HON'BLE SRI JUSTICE A.V. SSHA SAI

WRIT PETITION No.22329 of 2006

ORDER:

In the present writ petition, challenge is to the Award dated 07.09.2004 in I.D.No.5 of 2003 passed by the Labour Court – I, Hyderabad.

2. Heard learned Government Pleader for Forests, appearing for the petitioner and Sri P. Raghavender Reddy, learned counsel appearing for the respondent-workman, apart from perusing the material available before this Court.

3. Assailing his oral termination, the respondent-workman raised I.D.No.5 of 2003 under Section 2-A(2) of the Industrial Disputes Act, 1947.

4. According to the respondent-workman, he was engaged on daily wage basis as per the Standard Schedule of Rates from March, 1992 for protection of deers in the National Deer Park, Mahavir Harini at Vanasthalipuram, Hyderabad. A theft of water sprinklers in the said park took place on 16.05.2002, which was followed by lodging of a complaint before Hayathnagar Police Station and the same was registered as Crime No.166 of 2002 for the offence punishable under Section 379 of IPC and one Mr. Shaik Masthan was apprehended in that regard. According to the petitioner herein, the respondent-workman committed theft of the said

water sprinklers and apprehending arrest by the police, he stopped attending the duties voluntarily from 17.05.2002. On the other hand, it is the case of the respondent-workman that he was orally terminated by the authorities w.e.f., 01.08.2002. The Tribunal, basing on the pleadings and the material available on record, framed the following point for consideration:

“Whether the petitioner-workman is entitled for reinstatement into service with continuity of service and back wages as prayed for?”

5. During the course of enquiry, the respondent-workman examined himself as WW.1 and marked Exs.W.1 to W.3. On behalf of the petitioner herein, the Forest Range Officer was examined as MW.1 and Exs.M.1 to M.5 were marked.

6. The Tribunal meticulously and thoroughly considered the entire material available on record, including Ex.W.3 – charge sheet dated 18.12.2002, which showed the name of one Mr. Shaik Masthan as an accused, but not the name of the respondent-workman. The Tribunal also considered the documents filed on behalf of the authorities and came to a categorical conclusion that the respondent-workman was initially engaged in the year 1992 and worked till he was orally terminated. The Tribunal also took into consideration Exs.W.1 – Demand Notice dated 24.12.2002 issued by the respondent-workman for his reinstatement and also Ex.M.5 – Cash Book.

7. A perusal of the Award dated 07.09.2004 in I.D.No.5 of 2003, which is under challenge, clearly discloses that the Tribunal assigned valid and convincing reasons for arriving at the conclusions in the impugned Award dated 07.09.2004.

8. In this context, it may be appropriate to refer the judgment rendered by the Hon'ble Apex Court in the case of SYED YAKOOB v. RADHAKRISHNAN¹, wherein at para-7, the Hon'ble Apex Court held as under:

“The question about the limits of the jurisdiction of High Courts in issuing a writ of certiorari under [Article 226](#) has been frequently considered by this Court and the true legal position in that behalf is no longer in doubt. A writ of certiorari can be issued for correcting errors of jurisdiction committed by inferior courts or tribunals: these are cases where orders are passed by inferior courts or tribunals without jurisdiction, or is in excess of it, or as a result of failure to exercise jurisdiction. A writ can similarly be issued where in exercise of jurisdiction conferred on it, the court or tribunal acts illegally or improperly, as for instance, it decides a question without giving an opportunity to be heard to the party affected by the order, or where the procedure adopted in dealing with the dispute is opposed to principles of natural justice. There is, however, no doubt that the jurisdiction to issue a writ of certiorari is a supervisory jurisdiction and the court exercising it is not entitled to act as an appellate court. This limitation necessarily means that findings of fact reached by the inferior court or tribunal as result of the appreciation of evidence cannot be reopened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by the tribunal, a writ of certiorari can be issued if it is shown that in recording the said finding, the tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Similarly, if a finding of fact

¹ AIR 1964 SUPREME COURT 477

is based on no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari. In dealing with this category of cases, however, we must always bear in mind that a finding of fact recorded by the tribunal cannot be challenged in proceedings for a writ of certiorari on the ground that the relevant and material evidence adduced before the tribunal was insufficient or inadequate to sustain the impugned finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the tribunal, and the said points cannot be agitated before a writ court. It is within these limits that the jurisdiction conferred on the High Courts under [Article 226](#) to issue a writ of certiorari can be legitimately exercised."

9. It is clear from the principle laid down by the Apex Court in the aforesaid judgment that a writ in the nature of a Writ of Certiorari can be issued only when there is an error of jurisdiction or when there is failure to exercise jurisdiction or when there is violation of the principles of natural justice. In the instant case, the said contingencies are conspicuously absent.

10. It is submitted by the learned counsel for the petitioner that though initially this Court granted interim stay on 30.10.2006, subsequently, by order dated 17.07.2007, this Court directed the petitioner-Management to reinstate the respondent-workman into service and in pursuance of the said order, the authorities have reinstated the respondent-workman into service and as on date, the respondent-workman is continuing in service.

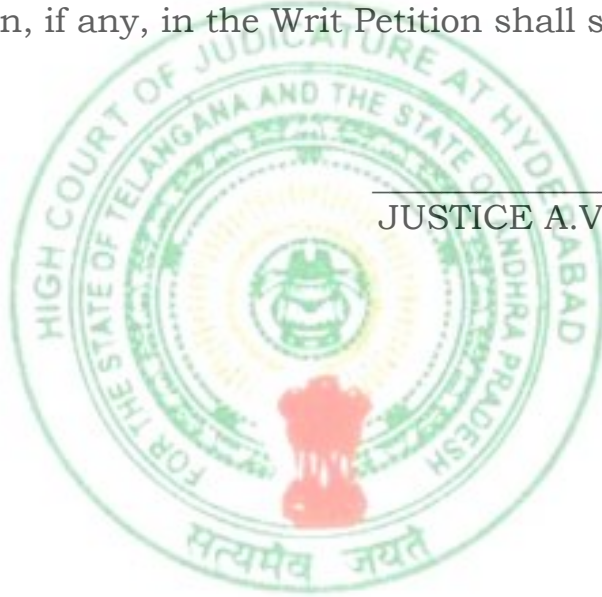
11. In view of the above, this Court does not find any valid reasons to meddle with the well reasoned and well articulated Award dated 07.09.2004 passed by the Tribunal and this Court has no hesitation to hold that there no merits in the writ petition and the same is liable to be dismissed.

12. For the aforesaid reasons, this writ petition is dismissed. No order as to costs.

13. As a sequel, Miscellaneous Petitions pending consideration, if any, in the Writ Petition shall stand closed.

08.06.2017.
Msr

JUSTICE A.V. SESA SAI



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