

HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION Nos.24443 AND 24784 OF 2003

COMMON ORDER:

Since both the writ petitions are filed against the common Award, dated 25.06.2003, passed by the Industrial Tribunal – cum – Labour Court, Visakhapatnam, both the writ petitions are being disposed of by this common order.

W.P. No.24443 of 2003 is filed to call for the records relating to I.D. No.180 of 2001, and W.P. No.24784 of 2003 is filed to call for the records relating to I.D. No.81 of 2002 on the file of the Industrial Tribunal-cum-Labour Court, Visakhapatnam, and to quash the common award, dated 25.06.2003.

The case in brief is that the 1st respondent in WP No.24443 of 2003, by name, B. Mutyala Naidu, and the 1st respondent in WP No.24784 of 2003, by name, K.V. Appala Naidu, while working as Security Guards in the Zonal Workshop at Vizianagaram, have allowed one Conductor, by name, Narayana of Kurnool Depot in the Zonal Workshop and he took away the bundles of high ticket blocks, worth Rs.43.33 lakhs, due to lapse in checking on the part of the respondents. The Senior Assistant of Stores has brought the same to the notice of the Stores Officer and basing on the report of the Senior Assistant, charge sheets were issued to two workmen by framing charge for their failure in checking. The enquiry officer had conducted the enquiry by observing principles of natural justice from all corners. The Management evidence was adduced and the workmen were given an opportunity to cross examine the management witnesses. The statement of the workmen also recorded in the enquiry. Basing on the available evidence with him, the enquiry

officer had opined that the workmen were guilty of the charges and sent his report to the Vigilance & Security Officer, Vizianagaram zone. The Vigilance & Security Officer, after perusing the enquiry report and the records available with him, sent a show cause notice of removal to the workmen to give him one more opportunity to defend their case. The workmen were removed from service as they have not given any convincing reply to the show cause notice. Against that order, the workmen filed appeal and review petitions and the same were rejected. Against the order, the 1st respondent in WP No.24443 of 2003 filed I.D. No.180 of 2001 and the 1st respondent in WP No.24784 of 2003 filed I.D. No.81 of 2002 on the file of the Industrial Tribunal cum Labour Court, Visakhapatnam. The Labour Court passed common award on 25.06.2003 in both the I.D.s, by setting aside the removal orders and directing the management to reinstate the workmen with 80% of the back-wages and with continuity of service. Challenging the same, the present writ petitions are filed.

Learned Standing Counsel for the petitioners has vehemently contended that since because of the act of these workmen, one conductor had taken away the tickets worth Rs.43.00 lakhs, and caused huge loss to the Corporation and that the Labour Court, without considering the evidence adduced by the petitioners, passed the impugned award by taking a lenient view that there is no willful act by the respondents.

While admitting both the writ petitions on 20.11.2003, this Court passed the following interim orders:

In WP MP No.20776 of 2003 in WP No.24443 of 2003:

“There shall be interim suspension of the award of the Industrial Tribunal-cum-Labour Court subject to condition that the respondent – workman shall be reinstated into service and 25% of the back wages as awarded by the Labour Court have to be deposited within two months from today. The respondent is at liberty to withdraw the same, without furnishing any security.”

In WP MP No.31207 of 2003 in WP No.24784 of 2003:

“There shall be interim suspension of the impugned award except as to the reinstatement and payment of 25% back wages by the petitioners. However, the amount of 25%back wages shall be deposited within a period of six weeks from today. On such deposit, the respondent workman is entitled to withdraw the same without furnishing any security.”

From a perusal of the award impugned and the material available on the record, it is evident that after considering the facts and circumstances of the case and also after careful appreciation of the evidence adduced by both parties, the Labour Court has passed the award impugned. Hence, this Court is not inclined to interfere with the award of the Labour Court to the extent of reinstatement of the workmen.

Considering the facts and circumstances of the case, this Court is inclined to pass the following order:

The 1st respondent in WP No.24443 of 2003 and the 1st respondent in the 24784 of 2003 are entitled to 40%of the salary as backwages for the period during which they were not in service i.e. from the date of removal till the date of reinstatement. The petitioners are directed to pay the said amount to the respondents within a period of three (3) months from the date of receipt of a copy of this order. The other observations in the award are not interfered with by this Court. While paying the amount calculating 40%, the amount already paid to the respondents as per the interim orders passed by this Court, is directed to be deducted.

Accordingly, both the writ petitions are disposed of. No order as to costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

RAJA ELANGO, J

September 13, 2017
KTL

