

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No. 23753 OF 2006

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India for the following relief:

“To issue an appropriate writ, order or direction particularly one in the nature of a writ of Certiorari calling for the records relating to the impugned order dated 23.06.2006 made in M.P.No. 60/2002. The Court of Presiding Officer, Labour Court-I, A.P., Hyderabad directing the petitioners to pay the 1st respondent during the suspension period from July 1996 to February 1999 and to pay the difference of amount after deducting the subsistence allowance paid within one month from the date of the order failing which the 1st respondent is entitled for interest @ 12% P.A. and quash the same as being bad, illegal, without jurisdiction and invalid and pass such other and further orders to meet the ends of justice.”

Heard Sri N. Vasudeva Reddy, learned counsel for the petitioners and Smt. K. Udaya Sri, learned counsel for the 1st respondent apart from perusing the material available before this Court.

While the 1st respondent herein was working as a driver in the petitioner organization, an accident took place which resulted in death of two individuals. In connection therewith, the 1st respondent herein was placed under suspension by the petitioner organization. Thereafter, pursuant to the Orders of this Court, the 1st respondent was reinstated into service. It is also required to be noted, in this context, that the criminal prosecution launched against the 1st respondent herein in S.C.No. 1831 of 1996 also

ended in acquittal on 11.08.1999. The 1st respondent submitted a representation to the petitioners herein for payment of full salary for the period July 1996 to February 1999 i.e. period of suspension. Since the said representation did not yield any result, the 1st respondent filed an Application under Section 33-C(2) of the Industrial Disputes Act, 1947 for redressal of his grievance *vide* M.P.No. 60 of 2002. The said Application was resisted by the petitioner Road Transport Corporation by filing a counter. The Labour Court-I, Hyderabad, by way of an Order dated 23.06.2006, partly allowed the said Application, directing the petitioner management to compute full salary of the 1st respondent herein during the suspension period from July 1996 to February 1999 and to pay the difference of amount after deducting the subsistence allowance paid, within one month from the date of the said order. Challenging the validity and legal sustainability of the said Order, the present Writ Petition came to be filed.

This Court, while ordering *rule nisi* on 15.11.2006, granted interim suspension of the impugned Order as prayed for. Thereafter, the 1st respondent herein moved W.V.M.P.No. 2127 of 2007 seeking to vacate the said Order passed by this Court. On 17.09.2008, this Court made the interim order absolute subject to the condition of the petitioner Road Transport Corporation depositing half of the amount awarded by the Labour Court within a period of eight weeks with a further liberty to the 1st respondent to withdraw the same without furnishing any security.

Learned Standing Counsel for the petitioner Road Transport Corporation contends vehemently that the questioned order is

highly illegal, arbitrary and violative of Article 14 of the Constitution of India besides being opposed to the very spirit and object of the APSRTC Regulations and the provisions of the Industrial Disputes Act, 1947. It is further submitted by the learned counsel that without assigning any valid reasons, the Tribunal allowed the Application filed by the 1st respondent and the Tribunal did not consider the counter filed by the petitioner management. It is further submitted by the learned counsel that there is absolutely no justification on the part of the Tribunal to grant relief in favour of the 1st respondent herein for the period during which he did not work for the organization.

Per contra, it is contended by the learned counsel for the 1st respondent workman that there is absolutely no illegality nor there exists any infirmity in the impugned order and in the absence of the same, the Order passed by the Tribunal is not amenable for judicial review under Article 226 of the Constitution of India. It is further submitted that the Tribunal, duly taking into consideration the entire material available on record, correctly came to a conclusion and directed the petitioners herein to pay the amount after giving credit to the amounts already paid by way of subsistence allowance. It is also the submission of the learned counsel that the petitioner management did not initiate any departmental inquiry simultaneously and it is submitted further that the prosecution launched against the 1st respondent herein also ended in acquittal.

In the above background, now the question that emerges for consideration of this Court is - “whether the Order impugned in

the present Writ Petition passed by the Labour Court under Section 33-C(2) of the Industrial Disputes Act is amenable for any judicial review under Article 226 of the Constitution of India and whether the petitioners are entitled for any relief under Article 226 of the Constitution of India”.

The information available before this Court manifestly reveals that followed by an accident, the 1st respondent herein was placed under suspension by the petitioner organization and subsequently, the 1st respondent was also reinstated into service with effect from 02.03.1999. It is also not in dispute that the criminal prosecution launched against the 1st respondent herein *vide* S.C.No. 1831 of 1996 also ended in acquittal on 11.08.1999. It is not the case of the petitioner management that they conducted departmental inquiry and imposed any punishment. It is also significant to note, in this context, that the 1st respondent herein retired from service in the year 2014. In the considered opinion of this Court, the 1st respondent herein cannot be found fault with for not working in the organization during the subject period. On the other hand, he was restrained from working in the organization because of the order of suspension. In fact, the Tribunal took all these aspects into consideration and by virtue of the Order under challenge, partly allowed the Application filed by the 1st respondent, directing the petitioners to compute his full salary during the suspension period and to pay the difference of amount after deducting the subsistence allowance.

In this connection, it may be appropriate to refer to the judgment of the Hon'ble Apex Court in the case of **Syed Yakoob v.**

K.S.Radha Krishnan and others¹. In the said judgment, the Hon'ble Apex Court considered the parameters for issuing a writ of Certiorari by the High Courts under Article 226 of the Constitution of India. In para 7, the Hon'ble Apex Court categorically ruled that a writ in the nature of Certiorari can be issued for correcting the errors of jurisdiction committed by the inferior Courts or Tribunals and when there is improper and illegal exercise of such jurisdiction and that the High Court is not entitled to act as an appellate Court. In the instant case, this Court is of the considered opinion that the petitioners have failed to show any such jurisdictional error, as such, this Court has absolutely no shadow of doubt to hold that the present Writ Petition merits no consideration.

For the aforesaid reasons, the Writ Petition is dismissed. No order as to costs.

Consequently, the miscellaneous Applications, if any shall stand closed.

A.V. SESA SAI, J

15th June 2017

ksld

¹ AIR 1964 Supreme Court 477