

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No. 2647 of 2009

ORDER:

This writ petition is filed by the respondent in I.D.No.11 of 2007 challenging the order, dated 05.01.2009, passed by the Industrial Tribunal-cum-Labour Court at Warangal in the said I.D.

In I.D.No.11 of 2007, respondent No.2 herein filed I.A.Nos.281 and 292 of 2008 seeking presence of Sri S.K.Murthy, Assistant Manager/Shift In-charge and production of the statement given by him in the domestic enquiry initiated by the petitioner-company.

It appears that there was an explosion of boiler in the petitioner-company and an enquiry was conducted on the same issue against some of the employees including respondent No.2 and the said S.K.Murthy. The services of respondent No.2 were terminated and aggrieved by the same, he filed the said I.D., in which he filed the above stated applications.

It is submitted by the learned counsel for the petitioner that S.K.Murthy was examined as a witness in the domestic enquiry held against respondent No.2 and it ultimately resulted in removal of services of respondent No.2. A copy of the enquiry report was also filed before the Labour Court. In the counters filed before the Labour Court, it was specifically stated that a preliminary enquiry was conducted by the Labour Court with regard to the validity of the domestic enquiry and the Labour Court by order, dated 24.11.2008, held the same as valid. It was also stated that the said S.K.Murthy was examined as M.W.2 in the domestic enquiry

and respondent No.2 was given an opportunity to cross-examine him and no plea was taken by respondent No.2 in the said proceedings that he was not given any opportunity to cross examine S.K.Murthy. In spite of the same, in I.D. filed before the Labour Court, he filed the present applications.

The Labour Court while dismissing I.A.No.281 of 2008 seeking presence of S.K.Murthy, allowed I.A.No.292 of 2008 for production of the statement given by S.K.Murthy in the domestic enquiry. When the Labour Court found that the presence of S.K.Murthy was not necessary, it ought not to have directed production of his statement. As already stated above, S.K.Murthy was examined as a witness in the domestic enquiry and respondent No.2 was given opportunity to cross-examine him. The statement of S.K.Murthy is thus available.

Accordingly, the order, dated 05.01.2009, allowing I.A.No.292 of 2008 is set aside and the Labour Court is directed to proceed with the enquiry in I.D.No.11 of 2007 and conclude the same as expeditiously as possible and not later than six months from the date of receipt of a copy of this order after giving due opportunity to the parties.

The writ petition is accordingly allowed.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO,J

Dt:21.06.2017

kdl

