

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.14433 OF 2001

ORDER

This writ petition is filed seeking to issue a Writ of Certiorari calling for the records relating to and connected with the Award dated 14-02-2001 passed in I.D.No.264 of 2000 by the Labour Court, Hyderabad and to quash or set aside the same by holding it as arbitrary and illegal.

Heard Sri Palle Sriharinath, learned Standing Counsel appearing for the petitioner-Corporation and Sri S.Ravindranath, learned counsel appearing for the 2nd respondent-workman.

It is the case of the petitioner that the 2nd respondent-workman was appointed as Security Guard in the petitioner-Corporation during 1980 and while working as such, series of charge sheets were issued against him on 31.03.1981, 13.2.1986, 13.03.1986, 31.08.1988, 18.1.1989 and 25.11.1991. Thereafter, regular departmental enquiry was conducted against the respondent-workman and in the enquiry, charges were held to be proved. Based on the enquiry officer's report, the petitioner issued a show cause notice on 4.1.1992 and the respondent-workman submitted his explanation on 16.1.1992 and further explanation on 15.02.1992. The petitioner, after careful examination of the entire case, passed final order of dismissal

on 28.03.1992 against the respondent-workman. Challenging the same, the respondent-workman had preferred I.D.No.96 of 1992, which was re-numbered as I.D.No.378 of 1993. Confirming the order of dismissal, the said ID was dismissed. Challenging the same, W.P.No.24673 of 1995 was filed and the same was disposed of on 22.02.1999 remanding the matter back to the Labour Court for consideration afresh, on merits. On remand, the I.D was re-numbered as I.D.No.264 of 2000 and the Labour Court passed an order in favour of the respondent-workman on 14-2-2001 by setting aside the order of dismissal dated 28.03.1992 with a direction to the petitioner to reinstate the respondent-workman into service with continuity of service and back wages. Challenging the same, the present writ petition is filed.

Learned Standing Counsel appearing for the petitioner submits that the Labour Court had not appreciated the fact that the regular enquiry was conducted within the time stipulated and there was no delay in concluding the enquiry proceedings. As per Clause 28 of the Standing Orders, the disciplinary proceedings should be completed within 45 days. Learned counsel further contends that the disciplinary proceedings were completed within 45 days and there was no delay, but the Labour Court has erroneously held that there is

inordinate delay in concluding the disciplinary proceedings initiated against the respondent-workman.

Learned counsel appearing for the respondent-workman contends that Clause 28 of the Standing Orders makes it abundantly clear that disciplinary proceedings should be completed within 45 days and in the instant case, for no lapse of the respondent-workman, the disciplinary proceedings were delayed for more than 7 to 8 years and thereafter, the respondents have concluded the disciplinary proceedings and imposed the major punishment of dismissal from service, which is nothing but violation of Clause 28 of the Standing Orders and also shockingly disproportionate to the charges levelled against the respondent-workman and hence, no interference is called for.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that the Labour Court had exercised its power under Section 11-A of the Act and has given a specific finding that the disciplinary proceedings were not completed as per Clause 28 (4-a) of the Standing Orders and there was inordinate delay in concluding the disciplinary proceedings. Unless and until some material is produced before this Court to demonstrate that the finding of the Labour Court is erroneous, this Court is

not inclined to interfere with the impugned Award passed by the Labour Court. There are no merits in this writ petition and the same is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No costs.

Miscellaneous petitions if any pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

28th August, 2018
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