

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.Nos.445 of 2007 & 8165 OF 2018

COMMON ORDER

Since the issue involved in both the writ petitions is one and the same, they are being disposed of by this common order.

W.P.No.445 of 2007 is filed by A.P.Dairy Development Co-operative Federation challenging the Award dated 25.1.2005 passed in I.D.No.12 of 2003 in favour of the respondent-workman.

W.P.No.8165 of 2008 is filed by the workman challenging the very same Award regarding the denial of back wages by the 1st respondent-Industrial Tribunal-cum-Labour Court, Warangal.

For the sake of convenience, the facts in W.P.No.445 of 2007 are narrated hereunder.

It is the case of the petitioners that 1st respondent-workman was initially appointed as Assistant Dairy Manager, Warangal and he was transferred to Khammam Dairy. While so, the petitioner-Federation initiated disciplinary action against him alleging that he had indulged in fraud and dishonestly acted in a manner prejudicial to the interests of Federation. After conducting detailed enquiry, and for the proven misconduct, the petitioner-Federation dismissed him

from service. Aggrieved by the same, the respondent-workman preferred an appeal and the same was rejected. Challenging the order of dismissal, the respondent-workman had preferred I.D.No.12 of 2003 under Section 2-A (2) of the Industrial Disputes Act, 1947 (for short 'the Act') before the 1st respondent-Industrial Tribunal-cum-Labour Court, Warangal. The Labour Court *vide* Award dated 25-11-2005 set aside the order of removal and directed the petitioners to reinstate the respondent-workman into service with continuity of service, but without back wages.

Learned counsel appearing for the petitioners submits that without following any of the contentions raised by the petitioner-Federation, the Labour Court allowed the ID preferred by the respondent-workman; that during pendency of the writ petition, the respondent-workman was reinstated into service and after attaining the age of superannuation, he had retired from service; that the Labour Court ought not to have set aside the order of dismissal and reinstated the respondent-workman into service; and that the impugned Award passed by the Labour Court is liable to be set aside.

Learned counsel appearing for the respondent-workman submits that the Labour Court has rightly passed the Award in favour of the respondent-workman; that the Labour Court

ought not to have denied the back wages; that the respondent-workman had retired from service on attaining the age of superannuation in the year 2010, but his terminal benefits are not settled; that appropriate orders be passed directing the petitioner-Federation to pay back wages to the respondent-workman and settle his terminal benefits.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the view that when once the Labour Court had exercised the power under Section 11-A of the Industrial Disputes Act, unless and until any illegality or irregularity is pointed out by the petitioners in the Award passed by the Labour Court, this Court cannot interfere with the same. In so far denial of back wages to the respondent-workman is concerned, the Labour Court has rightly denied the back wages to the petitioner by interfering with the punishment of dismissal from service by applying proportionality theory. There are no merits in the writ petition and the same is liable to be set aside.

Accordingly, both the Writ Petitions are dismissed. However, it is needless to state that the petitioner-Federation shall settle the terminal benefits of the respondent-workman as expeditiously as possible, preferably, within a period of four

weeks from the date of receipt of a copy of this order. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

4th February, 2019
rkk