

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.6361 OF 2010

ORDER:

1. This writ petition is filed seeking to issue a writ of Mandamus declaring the award passed on 12.8.2009 by the Labour Court-II, Hyderabad in I.D.No.135 of 2007 as illegal and arbitrary, and consequently, to set aside the same.

2. Heard Sri Zakir Ali Danish, learned Standing Counsel for the petitioners and Sri K. Vasudeva Reddy, learned Counsel for the respondent-workman.

3. It is the case of the petitioners that the respondent-workman was appointed as casual labour during the year 1980-81 in the erstwhile APSEB and thereafter, he was appointed as helper vide order dated 25.7.1990, and during the course of verification, it had come to the notice of the petitioners that the respondent-workman had secured employment by impersonating one Akthar Hussain. The said act of the respondent-workman was construed as misconduct by the petitioners. Further, a criminal complaint was also lodged against the respondent-workman. The petitioners issued a charge memo dated 30.4.1994, for which, the respondent-workman submitted his explanation. Being not satisfied with the same, enquiry officer was appointed. The enquiry officer submitted his report and thereafter, a show cause notice was issued to the

respondent-workman on 25.1.1995 proposing to dismiss him from service. Challenging the same, the respondent-workman filed W.P.No.5621 of 1995 and this Court vide order dated 28.2.2003 set aside the said show cause notice and remanded the matter to the disciplinary authority to conduct a fresh enquiry. Pursuant thereto, the petitioners have issued a revised charge sheet, and after conducting regular departmental enquiry, they removed the respondent-workman from service on 11.4.2005. Challenging the same, the respondent-workman preferred an industrial dispute under Section 2-A (2) of the Industrial Disputes Act by filing I.D.No.135 of 2007 before the Labour Court. The Labour Court passed award on 12.8.2009 in favour of the respondent-workman by setting aside the order of removal dated 11.4.2005 and directing that the respondent-workman be reinstated into service with continuity of service and with 50% back wages. Challenging the said award, the petitioners filed this writ petition. On 23.3.2010 while admitting this writ petition, this Court was pleased to grant interim stay to the extent of back wages only pending further orders. The petitioners complied with the award passed by the Labour Court in I.D.No.135 of 2007 by reinstating the respondent-workman into service.

4. The learned Counsel for the respondent-workman contended that the Labour Court had rightly passed the award in favour of the

respondent-workman after considering the entire case and the Labour Court has exercised its powers under Section 11-A of the Industrial Disputes Act, and therefore, the award impugned does not warrant any interference.

5. This Court has considered the rival submissions made by the parties and perused the material available on record. Since the respondent-workman was reinstated into service, the only issue that remains to be considered in this writ petition is whether the Labour Court was right in awarding 50% of the back wages or not.

6. The Labour Court while passing the award in favour of the workman on 12.8.2009 ought to have taken into account that in the enquiry the charge was proved. After considering the reasons recorded by the Labour Court in the award, this Court is of the view that the Labour Court should not have granted 50% back wages to the petitioner. In the circumstances, this Court feels that ends of justice would be met if only 25% of back wages is awarded to the respondent-workman.

7. Accordingly, 50% back wages awarded by the Labour Court in the award in I.D.No.135 of 2007 dated 12.8.2009 is modified to that of 25% back wages. Rest of the award shall remain. It is needless to observe that the petitioners shall carry out the exercise of fixing the pay of the petitioner by duly taking 25% of back wages

into account, within a period of eight weeks from the date of receipt of a copy of this order.

8. With the above modification, the Writ Petition is disposed of. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

Dated:21st August, 2018.
Nn.



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21/08/2018

Nn.