

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.23987 of 2004

ORDER:

This writ petition is filed seeking to issue a writ of Certiorari calling for the records relating to and connected with I.D.No.83 of 2001 on the file of the Industrial Tribunal-cum-Labour Court, Visakhapatnam, and quash the award dated 16.4.2004 passed therein, by holding it as illegal and arbitrary.

Heard Sri A.Srinivasa Sharma, learned counsel for the petitioner society and the learned Government Pleader for Labour.

The case of the petitioner society is that the 1st respondent workman was appointed as Milk Tester and as the workman has misappropriated the funds of the petitioner society, he was placed under suspension and was served with a charge sheet. When the workman refused to receive the charge sheet, the petitioner society has removed the workman from service for the alleged misconduct of misappropriation of funds vide orders dated 1.8.2000. The respondent workman has challenged the order of removal by filing I.D.No.83 of 2001 before the Industrial Tribunal-cum-Labour Court, Visakhapatnam. The Labour Court, vide orders dated 16.4.2004, allowed the I.D. and directed reinstatement of the workman without any back wages. Challenging the same, the present writ petition is filed.

Learned counsel for the petitioner society submitted that the Labour Court erred in setting aside the order of removal as the

respondent workman had indulged in misappropriation of funds of the petitioner society and that the respondent workman had admitted his guilt before the governing members and in view of admission of the guilt by the workman, the Labour Court ought not to have set aside the removal order.

Learned Government Pleader appearing for 2nd respondent had submitted that the Labour Court has rightly passed orders in favour of the respondent workman and that the petitioner society has not conducted any enquiry before passing removal order and that the removal orders are stigmatic on the workman. He further submitted that whenever the allegations of misappropriation are leveled, the petitioner society ought to conduct enquiry by giving an opportunity to the respondent workman to prove his case. Since the petitioner society has not conducted enquiry before passing removal order, the Labour Court had rightly set aside the order of removal and directed reinstatement of the workman into service and that there are no merits in the writ petition and the same is liable to be dismissed.

This Court having considered the submissions made by the parties, is of the considered view that the Labour Court has rightly set aside the order of removal of the respondent workman and directed reinstatement of the workman into service. The petitioner society ought to have conducted enquiry before imposing the penalty of removal from service, more so, when the removal orders are with a stigma that the respondent workman had indulged in misappropriation of funds of the petitioner society. Therefore, this Court is not inclined to interfere with

the orders passed by the Labour Court as no grave illegality or irregularity is pointed in the orders passed by the Labour Court.

Accordingly, the Writ Petition is dismissed. No costs.

Miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

Date: 21/12/2018

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