

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WP.No.32347 of 2018

ORDER :

Heard the counsel for petitioner, and Sri S. Prabhakar Reddy, counsel for respondent.

2. This Writ Petition is filed challenging the Award dt.07.11.2017 passed in I.D.No.54 of 2016 on the file of the Labour Court-I, Hyderabad.

3. The petitioner herein is a firm running a cinema theatre in Hyderabad.

4. The respondent was employed as a Ticket Clerk in the petitioner-Theatre on 01.05.1995 and later promoted as cashier-cum-booking clerk from 2002.

5. The respondent alleged that on 04.03.2016 one of the partners of the petitioner-Firm by name Mr. M. Ramesh alias Ram Prasad called him and asked him not to attend duties with immediate effect without assigning any reasons; and that this amounts to termination of his service without complying with Section 25-F of the Industrial Disputes Act, 1947.

6. Counter-affidavit was filed by petitioner stating that the respondent was also working as a Manager but was not accounting for the cash collected at the booking counter for the tickets sold, and when questioned he gave evasive reply, and this has led to the

petitioner facing several problems with the Commercial Tax Department. The petitioner contended that when respondent was questioned he stopped attending duties on 25.02.2016; and since he voluntarily stopped attending to duties, he cannot ask for reinstatement.

7. The respondent examined himself as WW.1 and marked Exs.W.1 to W.3. The petitioner did not adduce any oral or documentary evidence.

8. The counsel for petitioner also did not cross-examine the respondent when he stated that his services were orally terminated by the petitioner on 04.03.2016 in violation of Section 25-F of the Act.

9. Therefore, by Award dt.07.11.2017, the Labour Court allowed the claim of respondent holding that if respondent was absconding to duties without rendering proper account, the petitioner was expected to take disciplinary proceedings against him, but no such proceedings had been taken. It disbelieved the defence of petitioner and directed the petitioner to reinstate respondent into service with all backwages and attendant benefits within one month.

10. Assailing the same, the present Writ Petition is filed.

11. The counsel for petitioner contended that one of the partners of the Firm had fallen sick, was bed-ridden and did not attend and follow-up the case before the Labour Court which resulted in adverse orders passed by it in the above I.D.

12. No material is placed before this Court to show that the partner of the petitioner-Firm fell ill and was bed-ridden when the case was pending before the Labour Court. Even if one of the partners of the Firm fell ill, nothing prevented the other partner or partners of petitioner-Firm to be in touch with the counsel and take appropriate steps to defend the petitioner-Firm.

13. Having failed to lead evidence before the Labour Court and also to cross-examine respondent, the petitioner cannot seek a remand to the Labour Court now as that would amount to allowing petitioner to take advantage of its own wrong.

14. In my considered opinion, the Labour Court had assigned cogent reasons for accepting the case of respondent and for disbelieving the case set-up by petitioner which does not warrant any interference by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India.

15. Accordingly, I do not find any merit in the Writ Petition and is dismissed at the stage of admission. No order as to costs.

16. As a sequel, miscellaneous petitions pending if any in this Writ Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 22.10.2018

Ndr/*