

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILU

WRIT PETITION No.26390 of 2015

ORDER:

This writ petition is filed seeking the following relief :-

“.....to issue an appropriate writ, order or direction more particularly one in the nature of writ of certiorari calling for records relating to I.D.No.86/ 2013 dated 24.11.2014 on the file of the Labour Court-II, Hyderabad, which was published in the Gazette vide G.O.Pt.No.281 dated 10.12.2014 and quash the same as arbitrary, illegal and without jurisdiction”.

Heard Mr.N.Vasudeva Reddy, learned counsel for petitioner and Sri V.R.Balachari, learned counsel for the 1st respondent-workman.

It has been contended by the petitioner Corporation that the 1st respondent workman was appointed as cleaner on 19.07.1989 and thereafter promoted as Helper on 19.06.1998. While so, the 1st respondent was involved in a theft of oil bottle. The disciplinary authority has considered the said conduct as a mis-conduct and initiated disciplinary proceedings and after conducting departmental enquiry, for the proven misconduct, the disciplinary authority has imposed punishment of removal vide order dated 19.12.2013. Aggrieved thereby, the petitioner has filed I.D.No.86 of 2013 under Section 2-A(2) of the Industrial Disputes Act, 1947 (for short 'the Act') before the Labour Court-II, Hyderabad. The Labour Court, after hearing both sides, was pleased to pass the order dated 24.11.2014 in I.D.No.86 of 2013 by observing as follows :-

“In the result, the order of removal dated 19.12.2013 is hereby set aside and the punishment of removal is modified to one of stoppage of one increment with cumulative effect. The petitioner is not entitled for back wages and entitled for

attendant benefits and continuity of service. This award shall come into force under Section 17-A of I.D.Act, 1947, after 30 days of its publication.”

Challenging the same, the petitioner has filed the present writ petition.

Learned counsel for the petitioner submits that when the Labour Court has given a specific finding holding that the charges levelled against the 1st respondent are proved, the Labour Court ought not to have interfered with the punishment of removal and ought to have dismissed the I.D preferred by the 1st respondent. Therefore, the award passed by the Labour Court is liable to be set aside as it is contrary to its own findings.

Learned counsel appearing for the 1st respondent has contended that when the Labour Court has exercised its power under Section 11-A of this Court, normally this Court would not interfere with the award passed by the Labour Court, unless and until any illegality or irregularity has been pointed out by the learned counsel for the petitioner. In the instant case, the Labour Court has rightly passed orders in exercise of its power under Section 11-A of the Act and modified the punishment of removal by applying the proportionality theory. Therefore, 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 learned counsel for the parties, is of the considered view that when the Labour Court had exercised its power under Section 11-A of the Act and modified the punishment of removal by applying proportionately theory, unless and until any illegality or irregularity is pointed out by the learned counsel for the petitioner in the award

passed by the Labour Court, this Court cannot interfere with the award. Therefore, there are no merits in the writ petition and the same is liable to be dismissed

Accordingly, the writ petition is dismissed. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVIL, J

Date: 22-08-2019
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