

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.7011 of 2019

ORDER:

With the consent of both parties, this writ petition is being disposed of at the admission stage.

This writ petition is filed seeking a writ of Certiorari to call for the records relating to and connected with the orders dated 19.02.2019 passed in I.D.No.21 of 2016 vitiating the enquiry by the 1st respondent herein viz., Chairman-cum-Presiding Officer (FAC), Additional Industrial Tribunal-cum-Labour Court, Chandra Vihar Building, M.J. Market Road, Hyderabad, and to quash or set aside the same holding it as illegal, arbitrary and exceeding jurisdiction.

Heard the learned counsel for the parties.

It has been contended by the petitioner that the 2nd respondent was employed with the petitioner Company and disciplinary proceedings were initiated against the 2nd respondent on certain allegations and after conducting detailed enquiry, the 2nd respondent was dismissed from service. Challenging the same, the 2nd respondent filed I.D.No.21 of 2016 before the 1st respondent. The petitioner further contended that the 1st respondent has framed a preliminary issue to the effect that whether the domestic enquiry conducted by the enquiry officer is a valid one and followed the principles of natural justice, and passed an order on 19.02.2019 holding that the domestic enquiry is not valid.

Learned counsel for the petitioner contends that in the order dated 19.02.2019, the 1st respondent has nowhere discussed about the shortcomings in the enquiry and no discussion is made by the 1st respondent in holding that the domestic enquiry is not valid, and without any supporting material, the 1st respondent has recorded a finding that the findings of the enquiry officer are perverse. Learned counsel for the petitioner further contends that the only requirement for deciding the issue whether the domestic enquiry is valid or not is to be borne out from the record by considering the aspects whether the charge memo is served and whether the employee was given an opportunity to defend his case in the said enquiry, but the 1st respondent, without appreciating any of these facts, has mechanically held that the domestic enquiry is not valid, therefore, the orders passed by the 1st respondent on 19.02.2019 in I.D.No.21 of 2016 be set aside as they are contrary to law and without touching upon the key factors.

Learned Standing Counsel appearing for the 2nd respondent contended that the 1st respondent has rightly passed the orders by taking into account the pleadings raised in the claim petition and also rightly recorded a finding to the effect that the findings of the enquiry officer are perverse and thereby held that the enquiry is not valid; there are no merits in the writ petition and the writ petitioner is liable to be dismissed.

This Court, having considered the rival submissions of the learned counsel for respective parties, is of the considered view that the Labour Court had not assigned any reasons with regard to shortcomings in the conduct of domestic enquiry and also not given any valid reasons for holding the domestic enquiry as not valid, therefore, the impugned orders dated 19.02.2019 passed in I.D.No.21 of 2016 are liable to be set aside.

Accordingly, the writ petition is allowed setting aside the impugned orders dated 19.02.2019 passed in I.D.No.21 of 2016 and the matter is remitted back to the Additional Industrial Tribunal-cum-Labour Court, Hyderabad for adjudicating the issue whether the domestic enquiry was conducted properly or not, by re-appreciating the entire case on its merits based upon the material available before it. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

03rd April, 2019
v v