

HIGH COURT FOR THE STATE OF TELANGANA

THE HON'BLE THE CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN

AND

THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY

Writ Appeal No.504 of 2019

Date: 07.09.2019

Between:

The Singareni Collieries Company Limited,
Rep.by its General Manager

..Appellant

And

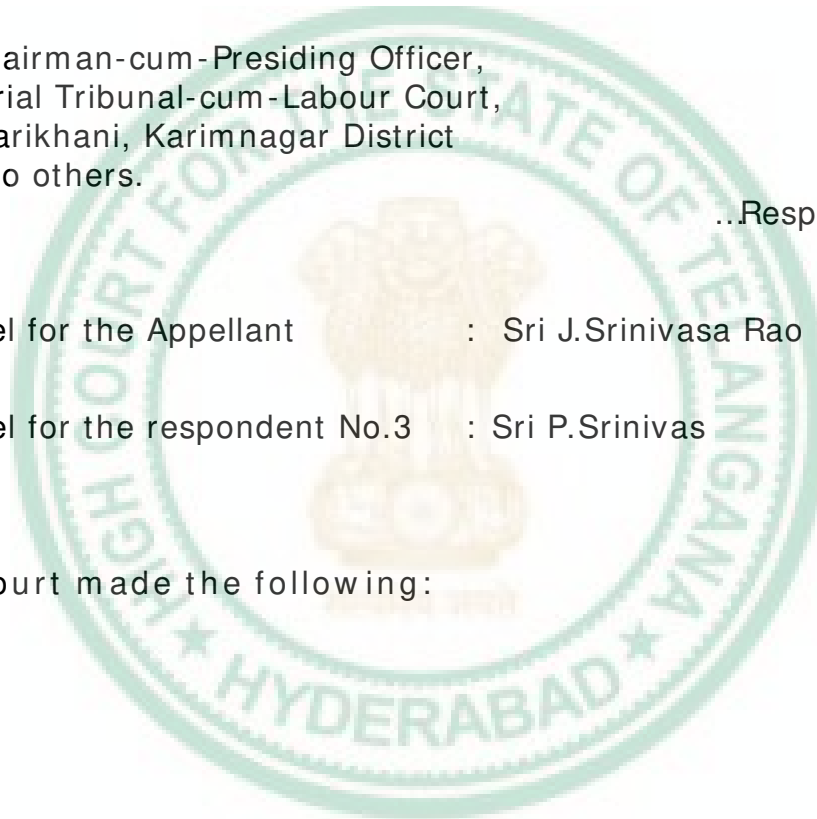
The Chairman-cum-Presiding Officer,
Industrial Tribunal-cum-Labour Court,
Godavarikhani, Karimnagar District
And two others.

..Respondents

Counsel for the Appellant : Sri J.Srinivasa Rao

Counsel for the respondent No.3 : Sri P.Srinivas

The Court made the following:



JUDGMENT: (Per the Hon'ble Sri Justice A.Abhishek Reddy)

The present Writ Appeal is filed by the Singareni Collieries Company Limited aggrieved by the order of the learned single Judge passed in W.P.No.24496 of 2001, dated 12.10.2018.

2. The brief facts of the case are that the 2nd respondent herein (hereinafter referred to as 'the workman'), who was working as General Mazdoor in the appellant-Company, had applied for casual leave on 02.06.1997 and after reaching his native place, he was attacked with Epilepsy, fell down on the ground and suffered injury on his head. Due to the sudden ill-health, the workman could not attend the duties from 03.06.1997 to 07.07.1997. Thereafter, he approached the company and submitted an 'Outstation Sick Certificate'. But the appellant-Company did not accept the same. However, it permitted the workman to re-join the duty. Subsequently, a charge-sheet, dated 07.07.1997, was issued to the workman holding him responsible for misconduct under the Company's Standing Order No.25 (31). Basing on the enquiry report, an order was passed on 28.08.1998, dismissing him from service. Even though the workman appealed to the Director (PAW), the same was not considered. Hence, he approached the Industrial Tribunal-cum-Labour Court under Section 2-A (2) of the Industrial Disputes Act, 1947, as amended by the Andhra Pradesh Amended Act, 1987, vide I.D.No.107 of 1998. Vide Award, dated 12.09.2000, the Labour Court found that the punishment of dismissal from service for the absence of duty from 03.06.1997 to 07.07.1997 was unjustified, and did not

commensurate with the charges leveled against him. Therefore, the learned Labour Court directed that the workman should be reinstated into service, without back-wages, but with continuity of service.

3. Aggrieved by the Award passed by the Labour Court, the appellant herein filed W.P.No.24496 of 2001. After going through the record, the learned single Judge dismissed the writ petition upholding the Award passed by the Labour Court. Assailing the order, dated 12.10.2018, passed by the learned single Judge in W.P.No.24496 of 2001, the appellant herein filed the present Writ Appeal, mainly on the ground that the Labour Court did not have the jurisdiction to decide the I.D. filed by the workman as the appropriate authority for the appellant Company is the Central Government and that the State amendment is not applicable to the workman; secondly, the workman has not submitted any medical certificate to show that he was hospitalized or under medication for the period of absence.

4. It is pertinent to note that during the pendency of the writ petition, the workman died and his wife was brought on record as the legal representative.

5. Heard Sri J.Sreenivasa Rao, the learned Counsel for the appellant, and Sri P.Srinivas, the learned Counsel for R.3.

6. After going through the record and hearing the learned Counsel for both the sides, we are of the opinion that the Writ Appeal filed by the appellant has to fail for the following reasons:

i) A Division Bench of this Court in *U.CHINNAPPA v. COTTON CORPORATION OF INDIA*¹ has held that even the employees of the Central Government Undertaking can also approach the Labour Court under Section 2-A (2) of the Industrial Disputes Act without recourse to the process of reference. Thus, there is no illegality or irregularity in the impugned Award warranting interference by this Court.

ii) Insofar as the second contention of the appellant-Company is concerned, the record shows that the workman had applied for leave on 02.06.1997. He suffered an epileptic attack and injured his head. Therefore, he could not attend the duty from 03.06.1997 to 07.07.1997; on 07.07.1997 he was allowed to join the duty. Absence of an employee without prior permission or without any justified cause is no doubt a ground for initiation of disciplinary proceedings. But the award of punishment should commensurate with the charges leveled/proved against the said workman. In this particular case, the workman though proceeded on leave after taking prior permission, he could not resume duties as he was affected by Epilepsy, and due to the injury on his head. He could not immediately join the duty. He was absent from 03.06.1997 to 07.07.1997. Even though, he had submitted an outstation sick certificate, the same was not accepted by the Company.

¹ 1998 (5) ALD 16 (DB)

iii) In UNION OF INDIA AND OTHERS v. P.GUNASEKARAN², the Hon'ble Supreme Court held as under:-

“Equally, it was not open to the High Court, in exercise of its jurisdiction under Articles 226/227 of the Constitution of India, to go into the proportionality of punishment **so long as the punishment does not shock the conscience of the Court.**”

(emphasis added)

iv) We are of the opinion that the Award of the Labour Court in directing the appellant-Company to reinstate the services of the respondent-workman without back-wages is a sufficient punishment for the absence of the employee and the order of dismissal is not proportionate to the charges leveled against him. Thus, we do not find anything wrong in the Award of the Labour Court, or in the order of the learned single Judge. Moreover, it is pertinent to note that the workman died during the pendency of the writ petition, and it would not be proper to adjudicate as to ‘whether the workman is entitled to reinstatement at this stage or not’ as the family has already suffered a great tragedy by the death of one of the family members who was the main breadwinner.

7. In view of the reasons stated above, this Court does not find any merit warranting any interference with the order of the learned Single Judge or the Award of the Labour Court and the Writ Appeal is accordingly dismissed.

² (2015) 2 SCC 610

The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

RAGHVENDRA SINGH CHAUHAN, HCJ

A.ABHISHEK REDDY, J

7th September, 2019
smr

