

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.14039 OF 2001

ORDER

This writ petition is filed seeking the following relief:

“...to issue an order, direction or writ particularly one in the nature of Writ of Mandamus declaring that the order of the Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad, dt. 8.3.2001 in I.D.No.26 of 1999 as illegal, void and bad in law and consequently quash the proceedings.”

Heard Sri Koka Satyanarayana Rao, learned counsel appearing for the petitioner, learned Government Pleader for Labour appearing for the 2nd respondent and Sri Laxman, appearing for the 1st respondent-workman.

Petitioner is a Company registered under the Companies Act and the 1st respondent-workman was employed as a Stores Officer. The petitioner has initiated disciplinary proceedings against the 1st respondent on the ground that he had entered the factory premises on a holiday and permitted an outsider to enter into the factory and instructed the security personnel to erase the names of the temporary workers. It was further alleged that the 1st respondent was in drunken state at that time. After conducting a detailed enquiry, the petitioner had imposed the major punishment of dismissal from service against the 1st respondent *vide* order dated 9.12.1998. Challenging the same, the 1st respondent filed I.D.No.26 of

1999 before the Additional Labour Court, Hyderabad, under Section 2-A (2) of the Industrial Disputes Act, 1947 (for short 'the Act'). The Labour Court *vide* order dated 8.3.2001 held that the enquiry was vitiated and invalid on the ground that the petitioner has not supplied the documents to the respondent-workman during the course of enquiry. Challenging the same, the present writ petition is filed by the petitioner-company.

While admitting the writ petition on 1.3.2002, this Court in WPMP No.17567 of 2001 granted interim stay of all further proceedings.

Learned counsel appearing for the petitioner contended that without appreciating any of the contentions raised by the petitioner, the Labour Court has held that the domestic enquiry was vitiated and invalid. It is further contended that since the 1st respondent discharged his duties as Stores Officer, he will not come within the meaning of workman under the Act. It is also contended that the right of the petitioner to lead evidence should not be denied by the Labour Court. It is prayed that appropriate orders be passed in the writ petition by setting aside the order passed by the Labour Court.

Learned Government Pleader and learned counsel appearing for the 1st respondent contended that the issue as to

whether the 1st respondent is a workman or not has to be adjudicated by the Labour Court at the time of hearing. The issue as to whether the domestic enquiry was properly held or not was adjudicated by the Labour Court in favour of the respondent-workman and no prejudice would be caused to the petitioner-Company if the domestic enquiry is held to be vitiated and invalid. It is further contended that every opportunity was given to the petitioner-Company to lead evidence and to prove that the enquiry was properly conducted and disciplinary proceedings initiated against the respondent-workman were justified. There are no merits in the writ petition and the same is liable to be dismissed.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that no prejudice would be caused to the petitioner-Company even if the domestic enquiry was held to be vitiated and invalid by the Labour Court *vide* order dated 8.3.2001. If the enquiry is vitiated in terms of the order passed by the Labour Court dated 8.3.2001, it is open for the petitioner to lead fresh evidence and demonstrate before the Labour Court that it has rightly dismissed the 1st respondent-workman in accordance with law. This Court is not inclined to interfere with the order passed by the Labour Court. There are no

merits in the writ petition and the same is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. It is needless to state that as and when the petitioner files an application to lead evidence, the Labour Court shall entertain such an application, in accordance with law. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

Date: 14.11.2019
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