

THE HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.16766 of 2006

ORDER:

This writ petition is filed seeking to issue a Writ of Certiorari to call for the records relating to and connected with the award passed in I.D.No.30 of 2001, dated 27.06.2005, by the Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad, (for short, 'the Labour Court') and quash or set aside the same holding it as arbitrary and illegal.

2. Heard Sri Palle Sriharinath, learned counsel for the petitioner and Sri B.G.Ravinder Reddy, learned counsel for contesting respondents.

3. It has been contended by the petitioner that the 2nd respondent was appointed as Dairy Attendant in Milk Produce Federation, Hyderabad, during September, 1991 and while he was discharging his duties, he has absented himself during March 1998 and the disciplinary authority has construed the same as misconduct and initiated disciplinary proceedings and after conducting regular departmental enquiry and for the proven mis-conduct, the disciplinary authority had imposed a punishment of removal of the 2nd respondent vide proceedings, dated 15.09.2000, and the 2nd respondent had filed I.D.No.30 of 2001 under Section 2-A(2) of the Industrial Disputes Act, 1947 (for short, 'the Act') before the Labour Court and during the pendency of said I.D.No.30 of 2001, the 2nd respondent had

expired on 13.06.2002. Later on, the legal representatives of the 2nd respondent were brought on record and the Labour Court, vide order, dated 27.06.2005, was pleased to pass an award in favour of the legal heirs of the 2nd respondent and the removal order was set aside and from the date of removal i.e., 15.09.2000 till the 2nd respondent died on 13.06.2002 it directed the petitioner to pay full wages and all terminal benefits to the legal representatives of the 2nd respondent. Challenging the same, the present writ petition is filed.

4. Learned counsel appearing for the petitioner had contended that the Labour Court ought not to have set aside the order of removal and directed full wages to be paid to the 2nd respondent, as the 2nd respondent was imposed with the punishment of removal for the proven mis-conduct in an enquiry. Therefore, appropriate orders be passed by setting aside the order passed in I.D.No.30 of 2001, dated 27.06.2005.

5. Learned counsel appearing for the contesting respondents had contended that the Labour Court has rightly passed orders in exercise of its power under Section 11-A of the Act and the Labour Court had taken note of the fact that the 2nd respondent had expired during pendency of I.D. and accordingly, directed the petitioner herein to pay full wages from the date of removal till the date of death of the 2nd respondent and also further directed terminal benefits be given to the legal representatives of the 2nd respondent. There are no merits in the writ petition and the same is liable to be dismissed.

6. This Court, having considered the rival submissions of the learned counsel for respective parties, is of the considered view that the Labour Court has rightly passed orders by directing the petitioner to pay full wages from the date of removal till date of death of the 2nd respondent and directed terminal benefits be paid to the legal representatives of the 2nd respondent in exercise of its power under Section 11-A(2) of the Act and the Labour Court had also gave a specific finding that the medical certificate produced by the legal representatives of the 2nd respondent was not appreciated by the petitioner and whenever any employee submits medical certificates, atleast the disciplinary authority has to consider those certificates and pass orders. In the instant case, it has been alleged that the 2nd respondent has absented himself in three spells ranging from 20 days to 25 days and in all cases, he has produced medical certificates and the disciplinary authority has not taken those medical certificates into account and imposed the punishment of removal from service, which was interdicted by the Labour Court in exercise of its power under Section 11-A of the Act and the Labour Court had also taken into account the fact that the 2nd respondent had already expired during pendency of I.D.No.30 of 2001 and considered all the facts and rightly passed order in favour of the legal representatives of the deceased. There are no merits in the writ petition and it is liable to be dismissed.

7. Accordingly, the writ petition is dismissed.

Miscellaneous petitions pending, if any, shall stand closed. No costs.

ABHINAND KUMAR SHAVILI, J

9th September 2019

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