

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.2904 of 2013

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioners seeking the following relief:

“For the reasons stated in the accompanying affidavit, the petitioners herein pray that this Hon'ble court may be pleased to issue appropriate writ, order or direction, particularly a writ of Certiorari calling for the records from respondent No.1 pertaining to award dt.04.08.2012 in ID.No.53 of 2006 passed by respondent No.1 and quash the same in the interest of justice and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

2. Heard Sri J.Prabhakar, Counsel appearing for the petitioners and the Government Pleader for Labour appearing for the 1st respondent and Sri B.Sudhakar Reddy, Counsel appearing for the 2nd respondent.

3. It has been contended by the petitioner that the 2nd respondent was initially appointed as Coal Filler in the petitioners' company during March, 1981, and while he was discharging his duties, he was unauthorizedly absent from January, 2002, to December, 2002, and the petitioners have construed the same as a misconduct and after initiating disciplinary proceedings, by conducting regular enquiry and when the misconduct was proved, the 2nd respondent was removed from service *vide* orders, dated 03.11.2003, with effect from 06.11.2003. Thereafter, the 2nd respondent has preferred an appeal in I.D.No.53 of 2006 before the Industrial Tribunal-cum-Labour Court, Godavarikhani, 1st respondent herein, under Section 2-A (2) of the Industrial Disputes Act, 1947 (for short, 'the Act'). The Tribunal *vide* orders, dated 04.08.2012, was pleased to modify the punishment

of dismissal as voluntary retirement under the scheme with Golden Handshake and pay all the benefits to the 2nd respondent under voluntary retirement scheme. Challenging the same, the present writ petition is filed.

4. Counsel appearing for the petitioners contends that there is no voluntary retirement scheme at that relevant point of time and the Labour Court has exhibited its jurisdiction in directing that the order of dismissal be modified to that of voluntary retirement under the voluntary retirement scheme with a Golden Handshake. Therefore, the impugned award passed by the Labour Court is liable to be set aside.

5. Sri B.Sudhakar, Counsel appearing for the 2nd respondent, had contended that the Labour Court had discussed and taken the fact into account that at the relevant point of time there was voluntary retirement scheme and the Labour Court has elaborately discussed at paras 10 & 11 and gave a cogent finding and modified the punishment of dismissal on the ground that it is shockingly disproportionate to the charge levelled against the 2nd respondent. Therefore, the Labour Court has rightly exercised its power under Section 11-A of the Act and there are no merits in the writ petition and the writ petition is liable to be dismissed.

6. This Court, having considered the rival submissions made by the parties, is of the considered view that the Labour Court has rightly exercised its power under Section 11-A of the Act and has taken the fact into account that at the relevant point of time there was voluntary retirement scheme and also the Labour Court has elaborately discussed at paras 10 & 11 and gave a cogent finding and

modified the punishment of dismissal to that of voluntary retirement under the voluntary retirement scheme with a Golden Handshake. Therefore, there are no merits in the writ petition and the writ petition is liable to be dismissed.

7. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

Date: 27th August, 2019

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