

THE HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT APPEAL No.1472 of 2018

JUDGMENT: (Per the Hon'ble the Chief Justice Sri Thottathil B.Radhakrishnan)

This Writ Appeal is by an establishment which faced a proceedings under the Industrial Disputes Act, 1947, before the Industrial Tribunal – cum – Labour Court, Warangal. The appeal is against the dismissal of the Writ Petition filed by it challenging the decision of the Industrial Tribunal – cum – Labour Court.

2. We have heard the learned counsel for the appellant.
3. The second respondent, who was a workman, was proceeded against as per charge memo, dated 29.07.1996, on the following allegation:

“That you, with an intention to cause the management to part with Rs.1,750/- altered the original and duplicate copy of the bill by adding figure ‘1’ before figure 5 and 30 in the text of the bill altered the figure 150 to 1950 and further added in words one thousand nine hundred and fifty only and used the said forged document for the purpose of making wrongful gain to yourself and for said purpose forged the original and duplicate copy of the bill as stated above.”

4. An enquiry was carried out. That led to an enquiry report. The delinquent was removed from service. That led to I.D.No.73 of 1997 before the Industrial Tribunal – cum – Labour Court, Warangal. The Tribunal observed that the domestic enquiry proceedings were duly held. However, it held that the conclusions arrived at in the enquiry report were unavailable on

the materials on record and that the conclusions were unsustainable and perverse. The Tribunal accordingly held that the charges were not proved; even in terms of the enquiry report. Therefore, it interfered and set aside the enquiry and directed reinstatement of the workman with full back wages, continuity of service and all attendant benefits. The challenge levied to the said order was repelled by the learned single Judge.

5. Learned counsel for the appellant – writ petitioner – establishment, argued that the Tribunal, having found that the disciplinary proceedings were duly held, did not have the jurisdiction to re-appreciate and consider the contents of the enquiry report and conclude; otherwise; on the findings by re-appreciating the material evidence on record. It is, therefore, argued that the procedure adopted by the Tribunal in appreciating the evidence which was before the Enquiry Officer resulting in the conclusion that the charges were not proved, is unsustainable.

6. The Tribunal initially proceeded to find out whether the disciplinary proceedings were held following due procedure which applies to domestic enquiries. The Tribunal, being satisfied of such procedure, thereafter proceeded to consider whether the findings in the enquiry report were available on the basis of the evidence on record. It dealt with the material facts and factors which were available in the form of depositions and

other particulars and held that the conclusions arrived at by the enquiry officer were not available on the basis of the materials on record. This means that the finding of the Tribunal was that the enquiry report was unsustainable and had no foundation on the available facts and evidence, that could be relied on in such an enquiry. The learned single Judge concurred with this. We concur with that in this intra-court appeal under Letters Patent.

7. The Tribunal had only held that there is no procedural flaw in the disciplinary proceedings. That does not mean that the Tribunal did not have the authority to consider whether the findings rendered by the disciplinary authority were available on the basis of the materials on record before the disciplinary authority. This is an issue, which has a direct impact on the sustainability of an order of discharge or dismissal. Therefore, this is well within the ambit of the Industrial Tribunal-cum-Labour Court to enter into such consideration. This power is available within the spectrum of jurisdiction of the Industrial Tribunals or Labour Courts under Sections 11A of the Industrial Disputes Act. It was, therefore, permissible for the Industrial Tribunal-cum-Labour Court to appreciate the materials and render a decision which would fall within the procedure prescribed under Section 11A of the Industrial Disputes Act. This is what is done by the Industrial Tribunal-cum-Labour Court in the case in hand. We do not find any illegality or jurisdictional infirmity in the action taken by the Industrial Tribunal-cum-Labour Court in that regard.

8. In the light of the aforesaid and having regard to the findings of the learned single Judge after considering the materials on record, we do not find that there is any ground to interfere with the impugned order issued in the Writ Petition or with the Award of the Tribunal.

9. The Writ Appeal, therefore, fails and the same is, accordingly, dismissed.

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

THOTTATHIL B. RADHAKRISHNAN, CJ

A.RAJASHEKER REDDY, J

28.02.2019
vs/pln