

**THE HONOURABLE THE CHIEF JUSTICE
SRI THOTTATHIL B. RADHAKRISHNAN**

AND

THE HONOURABLE SRI JUSTICE A. RAJASHEKER REDDY

WRIT APPEL No.1725 OF 2018

JUDGMENT: (ORAL) (Per Hon'ble Sri Justice A. Rajasheker Reddy)

This Writ Appeal is filed by the unsuccessful writ petitioner challenging the order dated 20.09.2018 in W.P. No.21527 of 2001, whereby and whereunder, the learned single Judge confirmed the award dated 02.07.2001 in I.D. No.102 of 1999 passed by the Industrial Tribunal - cum - Labour Court, Visakhapatnam.

2. Heard Sri S. Ashok Anand Kumar, learned counsel for the appellant - management, and Sri P.B. Vijay Kumar, learned counsel for respondent No.2 - workman, and perused the material on record including the impugned order passed by the learned single Judge as well as the award passed by the Labour Court.

3. Learned counsel for the appellant submits that since the workman, who was working as welder-cum-technician in the company of appellant, has assaulted employees of the appellant, immediately he was placed under suspension and subsequently, on regular enquiry being conducted against the workman, as the enquiry officer held that the charges levelled against the workman were proved, he was dismissed from service. The learned counsel submits that despite ample evidence and the material on record, the Labour Court without considering the same, set aside the dismissal order

issued by the appellant and modified the punishment of dismissal to that of stoppage of one increment with cumulative effect and ordered reinstatement of the workman into service with full back-wages and other attendant benefits. The learned counsel further submits that when the award of the Labour Court was challenged, the learned single Judge without considering the case of the appellant, disposed of the writ petition granting compensation of Rs.10,00,000/- (Rupees ten lakhs only) to the workman. The learned counsel also submits that the award of compensation is on higher side.

4. The learned counsel for the workman submits that the enquiry conducted by the management was not proper, there is no material on record to show that the workman has assaulted the employees of the appellant and that the Labour Court rightly set aside the punishment imposed by the appellant on consideration of the material on record and the same was confirmed by the learned single Judge on merits. The learned counsel submits that the learned single Judge finding that the relationship between the appellant and the workman is strained and that there was no possibility for reconciliation between them, rightly granted compensation of Rs.10,00,000/- to the workman and the same cannot be interfered with by this Court in this intra Court Letters Patent appeal.

5. It is to be seen that the learned single Judge as well as the Labour Court found that there was no assault by the workman and there was only an attempt to assault. The learned single Judge

observed that even the decisions of the Hon'ble Supreme Court on which learned counsel for the appellant relied on in the writ petition, are the matters where the workman had indulged in physical assault, but in the case on hand, no such physical assault took place but only there was an attempt to assault. The learned single Judge observing that since the Tribunal, in exercise of its powers under Section 11-A of the Industrial Tribunals Act, 1947, rightly passed the award by interfering with the punishment of dismissal as it was shockingly disproportionate and modified the said punishment to that of stoppage of one increment directing the appellant to reinstate the workman into service with full back-wages and other attendant benefits, held that it is not a case for interfering with the award passed by the Tribunal in favour of the workman by exercising writ jurisdiction. The learned single Judge found the relationship between the employer and the employee is bitter and strained, as such, granted compensation of Rs.10,00,000/- to the workman as full and final settlement in lieu of reinstatement by modifying the award of Labour Court by relying on the judgment of Apex Court in **Management of Aurofood Private Limited v. S. Rajulu**¹, wherein it was held that since the charges proved against the workman were trivial in nature and he has been out of employment since 1981 despite succeeding before the learned single Bench of the High Court in February, 2001, and in view of the bitter relations between the parties, it is appropriate to direct that instead of reinstatement, the workman would be entitled to a

¹ 2008 (14) SCC 608

compensation of Rs.10,0,000/- as full and final settlement with respect to his entire claim and accordingly ordered. The petitioner was also paid back-wages under Section 17B of the ID Act during the pendency of the writ petition.

6. For the aforesaid reasons, we are not inclined to interfere with the findings of the learned single Judge, but, we are of the view that interest of justice will be met if the compensation awarded by the learned single Judge is reduced. Therefore, the compensation of Rs.10,00,000/- awarded by the learned single Judge is reduced to Rs.6,50,000/- (Rupees six lakhs fifty thousand only) payable by the appellant to the workman.

7. With the directions as above, the Writ Appeal is disposed of, at the admission stage itself. No order as to costs.

As a sequel thereto, Miscellaneous Applications, if any pending, in the writ appeal stand closed.

THOTTATHIL B. RADHAKRISHNAN, CJ

A. RAJASHEKER REDDY, J

January 25, 2019.

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