

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.2213 OF 2007

Date: 28.01.2020

Between:

Allam Subba Rayudu & Co., a registered firm,
rep.by its Managing Partner, Allam Subba Rayudu,
s/o.Nagaiah, aged 65 years, r/o.8-3-220/C/10/101/F101,
Mani Residency, Yousufguda, Hyderabad.

.... Petitioner

and

A.P.State Cooperative Rural Irrigation Corporation Limited,
5-10-1993, 1st floor, HACA Bhavan, opp.Public Gardens,
Hyderabad, rep.by its Managing director and others.

.... Respondents



The Court made the following:

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ORDER:

This writ petition is filed praying to declare the action of the Managing Committee/appellant authority of A.P.State Cooperative Rural Irrigation Corporation Limited, in entertaining appeal filed by the 3rd respondent and setting aside the order of disciplinary authority dated 17.02.2004 and the consequential action of reinstating the 3rd respondent as illegal and unconstitutional.

2. Petitioner was awarded contract to bring and operate machines for removal of over burden in OCP-IV at Ramagundam by the Singareni Collieries Limited. Petitioner alleges that 3rd respondent failed to take the measurements of the work executed by the petitioner and was not paid the amounts due to it. Therefore, complaint was filed by the petitioner against the 3rd respondent explaining how he was put to loss of nearly 2.00 crores because of the acts of commission and omission done by 3rd respondent. The Managing Director initiated disciplinary action vide his proceedings dated 05.09.2000. Based on the findings in the domestic enquiry, orders were passed on 17.02.2004 imposing punishment of removal from service. Petitioner now alleges that 2nd respondent being appellate authority grossly erred in entertaining the appeal and setting aside the punishment of removal from service and reinstating the 3rd respondent.

3. In other words, the grievance expressed in the writ petition is on the power exercised by the appellate authority in setting aside the order of punishment imposed by the disciplinary authority.

4. The genesis of such grievance appears to be that 3rd respondent was not undertaking proper measurements of work executed by the petitioner and caused huge loss to the petitioner. The averments in the affidavit filed in support of the writ petition also disclose that petitioner instituted O.S.No.140 of 2002 in the Court of II Additional Chief Judge, City Civil Courts, Hyderabad, for recovery of money due to him. Learned counsel informs the Court that said suit was closed on 09.07.2014.

5. Leaving aside the grievance of petitioner regarding the amounts due to him and delay in payment of amounts allegedly due to conduct of the 3rd respondent, insofar as the initiation of disciplinary action and imposing appropriate punishment, it is within the realm of employer, and governed by contract of service between the employer and the employee. Third party, who is no way concerned with the employment, cannot probe into various decisions taken by the employer and challenge the orders of the appellate authority in the writ petition concerning 3rd respondent as part of disciplinary control.

6. The principle of law on institution of proceedings by third parties in service matters is well settled. Minimum standing required to institute writ of certiorari/writ of mandamus in service disputes is the person must be aggrieved as an employee or co-employee. What is claimed in the writ petition would be amounting to public interest litigation as petitioner cannot qualify as an aggrieved person to challenge the order of appellate authority in a disciplinary matter concerning the 3rd respondent.

7. If petitioner has grievance against the conduct of 3rd respondent, affecting his financial claims or was not acting *bona fide* or was biased and because of his actions only, petitioner was subjected to financial loss, in addition to recouping the loss caused to him from the employer due to such action of employee, in a given case, he may also claim damages against person concerned, who claimed to have caused loss, by initiating appropriate proceedings in accordance with law, if otherwise permissible, but he cannot challenge the decision of appellate authority as part of disciplinary control.

8. Therefore, Writ Petition in the present form is not maintainable and Writ Petition is accordingly dismissed. This order does not come in the way of petitioner in prosecuting the grievance against 3rd respondent/the respondent-Corporation, if it is otherwise permissible in law and if he is so advised. Pending miscellaneous petition shall stand closed.

JUSTICE P.NAVEEN RAO

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