

HIGH COURT FOR THE STATE OF TELANGANA
THE HON'BLE THE CHIEF JUSTICE SRI RAGHVENDRA SINGH CHAUHAN
AND
THE HON'BLE SRI JUSTICE A. ABHISHEK REDDY
WRIT APPEAL No.811 of 2019
19.02.2020

Between:

Md. Jameel Ahmed Khan, Died as per LRs

... Appellants

and

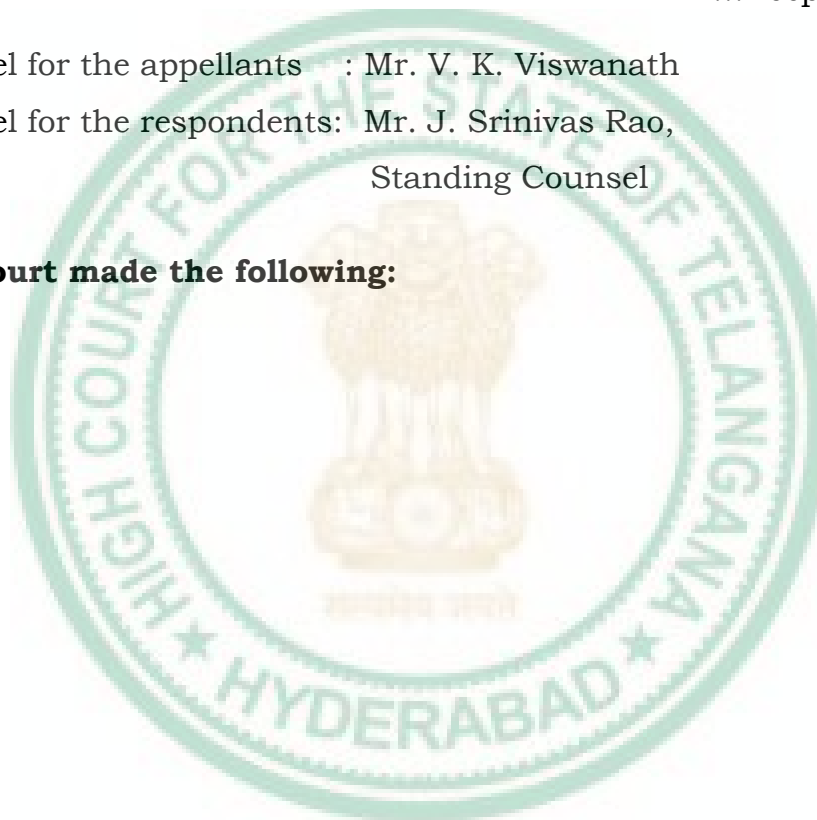
Industrial Tribunal-cum-Labour Court and another

...Respondents

Counsel for the appellants : Mr. V. K. Viswanath

Counsel for the respondents: Mr. J. Srinivas Rao,
Standing Counsel

The Court made the following:



JUDGMENT: (Per the Hon'ble the Chief Justice Sri Raghvendra Singh Chauhan)

The appellant No.1-petitioner ("the petitioner", for short) has challenged the legality of the order, dated 05.07.2019, passed by a learned Single Judge in W.P.No.12093 of 2019, whereby the learned Single Judge has dismissed the writ petition filed by him.

Briefly, the facts of the case are that on 05.05.1975, the petitioner was appointed as a Security Guard with the Singareni Collieries Company Limited, the respondent No.2. However, during the course of his service, in 1998, the petitioner's wife suffered from a heart problem, and she was admitted in a Government Hospital. Due to the sudden ailment of his wife, the petitioner was unable to inform about his absence to the respondent No.2. Subsequently, on 25.04.1998, a charge-sheet was furnished to the petitioner, wherein it was stated that he was a habitual absentee from the duties without sufficient cause. Despite the fact that the petitioner has submitted his reply to the charge sheet, a departmental enquiry commenced on 26.11.1998. After the completion of the departmental enquiry, by order dated 05.01.1999, the petitioner was dismissed from service with effect from 07.01.1999. Since the petitioner was aggrieved by the dismissal order, he filed a petition, namely I.D.No.22 of 2007, under Section 2-A(2) of the Industrial disputes Act, 1947 ("the Act", for short), before the learned Industrial Tribunal.

By award dated 18.03.2014, the learned Tribunal set aside the order dated 05.01.1999. But, considering the fact that during the course of the proceedings, the petitioner would have retired on 31.05.2013, the learned Tribunal converted the dismissal order into the one of voluntary retirement with no benefits subsequent to

the date of the dismissal. Since both the respondent No.2 and the petitioner were aggrieved by the said award, they filed two separate writ petitions before this Court, namely W.P.No.23268 of 2014 filed by the respondent No.2, and W.P.No.12093 of 2019 filed by the petitioner. By the common order dated 05.07.2019, the learned Single Judge has dismissed both the writ petitions. Hence, this present appeal filed by the petitioner before this Court.

Mr. Vedula Kasi Viswanath, the learned counsel for the appellants, has vehemently pleaded that the learned Single Judge should have converted the dismissal order into the one of medical invalidation. Although this plea was raised before the learned Single Judge, the learned Single Judge is unjustified in rejecting the said plea.

Heard the learned counsel, perused the impugned order, and examined the record submitted before this Court.

A bare perusal of the petition filed by the petitioner before the learned Tribunal clearly reveals that the petitioner had restricted himself to the following prayer :-

“The petitioner prays that this Hon’ble Court may be pleased to the set aside the Office Order dt: 05-01-1999 passed by the respondent dismissing the petitioner from service w.e.f. 07-01-1999 and direct the respondents’ company to reinstate the petitioner into service, with continuity of service, all other consequential attendant benefits and full back wages, to meet the ends of justice.”

Therefore, undoubtedly, the petitioner had not made any prayer before the learned Tribunal that his dismissal order, in fact, should be converted into a medical invalidation order. Therefore, the learned Single Judge is justified in observing that the said plea was not even raised before the learned Tribunal by the petitioner.

Moreover, before a person can be declared to be medically invalidated, the requirement of the law is that he must have five years of service still left. However, admittedly, the petitioner would have retired on 31.05.2013. Thus, the requirement of having five years of service left could not be satisfied. Therefore, the learned Single Judge is justified in not granting the benefit of medical invalidation to the petitioner.

For the reasons stated above, this Court does not find any merit in the present writ appeal; it is, hereby, dismissed. There shall be no order as to costs.

The miscellaneous petitions pending, if any, shall stand closed.

RAGHVENDRA SINGH CHAUHAN, CJ

A. ABHISHEK REDDY, J

19th February, 2020
JSU

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