



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3457]

TUESDAY, THE TWENTY SEVENTH DAY OF JANUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE HARINATH.N

WRIT PETITION NO: 11850/2011

Between:

1. KADAPA CO-OPERATIVE HOUSE BUILDING SOCIETY, KADAPA,
REP BY ITS PRESIDENT P.V. SESA REDDY, WARD NO. 124,
KADAPA NO. 20/921, R.K. NAGAR COOPERATIVE COLONY,
KADAPA

...PETITIONER

AND

1. THE CHAIRMAN CUM PRESIDING OFFICER ANANTAPUR
ANOTHER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ANANTAPUR

2. IRGADINDLA GURU PRASAD, S/O. I VEERAPPA, EX ATTENDER,
R/O. DOOR NO. 20/712, KADAPA

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of "Certiorari" calling for records of the I.D.No.96 of 2008 and set aside the Award dated 15.2.2011 as illegal, arbitrary, unconstitutional and without jurisdiction and pass

IA NO: 1 OF 2011(WPMP 14495 OF 2011)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to issue interim orders suspending the operation of the Award in ID No.96 of

2008 dated 15.2.2011 passed by the 1st respondent, pending disposal of this writ petition and pass

Counsel for the Petitioner:

1. GANTA PRASAD

Counsel for the Respondent(S):

1. GP FOR LABOUR

2. RAMAKRISHNA AKURATHI

3. KARANAM RAVI SANKAR BABU

The Court made the following:

Order:-

The petitioner is a society challenging the orders passed in I.D. No.96/08 dated 15.02.2011. The Industrial Tribunal-cum-Labour Court, Anantapur had set aside the removal orders of the 2nd respondent and directed the petitioner to reinstate the 2nd respondent into service with continuity of service and attendant benefits, but without back wages.

2. The learned counsel appearing for the petitioner submits that the 2nd respondent was engaged as an attender in the petitioner's society. However, the 2nd respondent was not attending to his duties as required and, accordingly, a charge sheet dated 19.10.2007 was issued by the petitioner to the 2nd respondent. Four charges were framed and the 2nd respondent was required to submit his explanation for conducting an enquiry into the said charges.

3. The learned counsel appearing for the petitioner submits that the 2nd respondent was resorting to habitual absenteeism without getting leave approved in advance. The 2nd respondent was also charged with canvassing and campaigning for votes during the election to the Managing Committee held on 08.06.2007 while absenting himself from duty by submitting a fake medical certificate. The 2nd respondent was also charged with indiscipline and reporting to unconnected officers, thereby defaming the society.

4. It is further submitted that the 2nd respondent had filed I.D. No.96/08 and the Labour Court had passed an order directing reinstatement of the 2nd respondent. It is also submitted that the said order is devoid of any reasoning and the only reason mentioned by the learned Labour Court for passing the order of reinstatement is that the petitioner's society had not conducted the enquiry on proper lines and, as such, found the order of dismissal as disproportionate to the charges framed.

5. It is submitted that this Court, while admitting the writ petition, had suspended the award of the Tribunal subject to the petitioner complying with Section 17(b) of the Industrial Disputes Act, 1947. This order was passed on 26.04.2011. It is also submitted that the petitioner has been diligently complying with the order passed by this Court and has also paid the P.F. and other benefits due and payable to the 2nd respondent herein. It is submitted that the 2nd respondent never came forward to join duty. However, the petitioner has continued to pay the wages as per Section 17(b) of the I.D. Act. It is submitted that the reasoning relied upon by the Tribunal would have to be set aside as habitual absenteeism amounts to violation of discipline of the petitioner's organization and unauthorized absence for a long period would have to be dealt with appropriately with the severest punishment, including removal from service.

6. The learned counsel for the petitioner places reliance on the judgment of the ***Hon'ble Supreme Court in the matter of L&T Komatsu Ltd., vs. N. Udaya Kumar***¹.

7. It is submitted that the Hon'ble Supreme Court has also held that the Labour Court and the High Court were not justified in directing reinstatement by interfering with the order of termination and, accordingly, the order of termination passed by the authority concerned was restored.

8. The learned counsel appearing for the 2nd respondent submits that the 2nd respondent was not allowed to discharge his duties though the petitioner has been complying with the directions of this Court and paying the salary in terms of Section 17(b) of the I.D. Act. It is also submitted that the 2nd respondent had applied for leave and had detailed the reasons for his non-attendance to duty. It is submitted that the 2nd respondent, vide his reply dated 14.11.2007, had justified the reasons for his prolonged leave substantiated by the medical certificate issued by the treating doctor.

9. It is further submitted that the 2nd respondent met with a scooter accident resulting in a limb fracture and he had to take bed rest and thereafter he was treated for spinal cord pain and the medical certificate issued by the doctor was submitted to the competent authority for considering the same before deciding and passing orders on the charges framed. The order of termination dated 31.01.2008 is perused and the petitioner's society had

¹ (2008) 1 SCC 224

doubted the medical certificates submitted by the 2nd respondent and the President of the petitioner's society, by invoking the powers conferred on him, passed the orders of removal of the 2nd respondent herein from service.

10. When the medical certificates were substantiated, no efforts appear to have been made for recording the statement of the medical officer who treated the 2nd respondent nor were the medical certificates sent for verification to the concerned Government Hospital for verifying their authenticity. However, the President of the petitioner's society, on suspicion that the 2nd respondent had submitted false medical certificates, passed the order of removal.

11. The Labour Court has considered the issue in totality and has also considered the exhibits marked on behalf of the 2nd respondent, which include the charge sheet issued by the petitioner's society and the explanation submitted by the 2nd respondent and other documents which were marked before the Tribunal.

12. The 2nd respondent submitted leave applications explaining the leave and the leave was sought to be extended from time to time. It is also evident from the charges framed against the 2nd respondent herein and the explanation submitted by him that he met with a scooter accident resulting in fracture of his right leg and, on account of non-recovery from the said accident the 2nd respondent had sought extension of his leave from time to time. There is no material available on record which would indicate that the leave application of the 2nd respondent was rejected and the 2nd respondent was

called upon to join duty on a specified day, failing which appropriate action would follow.

13. It is also not the case of the petitioner that the 2nd respondent never applied for leave. All that is stated is that the 2nd respondent was in the habit of submitting leave applications on the penultimate day of the last day of leave and seeking further extension of leave. The judgment relied upon by the learned counsel for the petitioner would not be applicable to the facts of this case as the Hon'ble Supreme Court was dealing with a case relating to absence from duty without application for leave.

14. On the facts of this case, admittedly, the 2nd respondent applied for leave which was neither rejected nor disputed at the relevant point of time. The explanation submitted by him was also considered by the Tribunal and Ex.W1 to Ex.W10 were marked on his behalf, which were duly considered by the Tribunal before passing the impugned award.

15. The petitioner has complied with Section 17(b) of the I.D. Act all these years and it is stated by the learned counsel appearing for the 2nd respondent that the 2nd respondent is not employed elsewhere. This Court is of the considered view that the petitioner would have to reinstate and permit the 2nd respondent to discharge his duties. On these considerations, this Court is not inclined to interfere.

16. Accordingly, this writ petition is dismissed with a direction to the petitioner-society to reinstate the 2nd respondent forthwith and pass appropriate orders. There shall be no order as to costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE HARINATH.N

27.01.2026
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