

Vijaya Kumar and ors. Vs. General Manager, Milk Products Factory, Andhra Pradesh Dairy Development Cooperative Federation Ltd.

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Court : Andhra Pradesh

Decided On : Feb-15-1989

Reported in : (1991)IILLJ354AP

Judge : M. Jagannadha Rao, J.

Appeal No. : W.P. No. 2139/ 1989

Appellant : Vijaya Kumar and ors.

Respondent : General Manager, Milk Products Factory, Andhra Pradesh Dairy Development Cooperative Federation Ltd.

Judgement :

ORDER

1. The petitioners were Security Guards in the Milk Products Factory A.P. Dairy Development Co-operative Federation Limited, Hyderabad. The impugned order dated 9th January, 1989 is passed by the management suspending the six petitioners who are Security Guards pending enquiry into certain charges. In the impugned order it is stated that 60 Ghee tins of 15 Kgs. worth of Rs. 53,445-00 were found missing from the Godown of Cold Stores, Somajiguda. The Junior Manager, one T. R. Jugraj Prasad, and the Store Keeper G. Janardhan, are said to have been entrusted with these stocks and they failed to maintain accounts.

The petitioners who are the Security Guards are also referred to in the order in connection with the said charge and are kept under suspension.

2. The Learned Counsel for the Petitioner, Sri Malla Reddy submits that these Security Guards were not on duty when the Ghee tins were lost.

3. In my view, this is a matter which they have to submit in their explanation and it is for the disciplinary authority to consider the same and it is not for this Court either to accept the statement or to reject it.

4. The other argument of the Learned Counsel is that in a connected writ petition an ex parte interim order was granted by this Court in a W.P. M.P. suspending the operation of the order of suspension passed by the disciplinary authority, in respect of Sri Jugraj Prasad & Janardhan. In my view, the said ex parte interim order granted by this Court does not operate as a precedent. In *Empire Industries Limited v. Union of India* : [1986]162ITR846(SC) their Lordships of the Supreme Court have pointed out that interim orders passed by other Learned Judges in the same Court cannot be treated as precedents. It is worth while to reproduce para 58 of the said judgment which is as follows :-

'Good deal of arguments were canvassed before us for variation of vacation of the interim orders passed in these cases. Different Courts sometimes pass different interim orders as the Courts think fit. It is matter of common knowledge that the interim orders passed by particular Courts on certain considerations are not precedents for other cases which may be on similar facts. An argument is being built up now-a-days that once an interim order has been passed by this Court on certain factors specially in fiscal matters, in subsequent matters on more or less similar facts, there should not be a different order passed nor should there be any variation with that kind of interim order passed. It is submitted at the Bar that such variance creates discrimination. This is an unfortunate approach. Every Bench hearing a matter on the facts and circumstances of each case should have the right to grant interim orders on such terms as it considers fit and proper and if it had granted interim order at one stage it should have the right to vary or alter such interim orders. We venture to suggest, however, that a consensus should be developed in the matter of interim orders'.

5. For the aforesaid reasons, the Writ Petition is dismissed at the stage of admission.

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