IN THE HIGH COURT OF TELANGANA AT HYDERABAD

W.P.No. 12853 of 2010

Between:

The Regional Manager, APSRTC and others

... Petitioners

And

G.S. Bangaram and another

... Respondents

JUDGMENT PRONOUNCED ON: 05.06.2023

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

1. Whether Reporters of Local newspapers may be allowed to see the Judgment? : yes

2. Whether the copies of judgment may be marked to Law Reporters/Journals? : yes

3. Whether Their Lordships wish to see the fair copy of the Judgment? : yes

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SUREPALLI NANDA, J

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

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< Gist:
> Head Note:

! Counsel for the Petitioner : Standing counsel for RTC

^ Counsel for the Respondents: Mr V.Narsimha Goud

? Cases Referred:
1. 1982 (3) SCC 346
2. 1986 (4) SC 519
3. 1984(3) SCC 5
4. 1984(2) SCC 569
5. 1984 (1) SCC 152
6. 1984 (1) SCC 35
7. 1980 (2) SCR 146
8. 1973(1) SCC 873
9. AIR 1965 sc 917
10. AIR 1958 SC 130
11. 2009 (3) SCC 254
12. 2008(5) SCJ 439

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

W.P.No. 12853 of 2010

ORDER:

Heard the learned standing counsel appearing on behalf of the petitioners and learned counsel for the respondents.

2. This Writ Petition is filed to issue a Writ of Certiorari calling for records relating to the Impugned Award dated 20.08.2009 in I.D. No. 46/2009 published in G.O.Rt.No.1587, Labour Employment Training and Factories (LAB-I) Department, dated 23.11.2009 allowing the petition in part and directing the petitioners herein to reinstate the 1st respondent into service together with continuity of service, increments, and back-wages and quash the same.

3. The Case of the petitioner in brief is as follows:

a) The 1st respondent had been engaged as Temporary Conductor on 08.10.1996, and his service was regularized on 01.08.1997. The respondent failed to perform service no. 10/2 on the on the route 45k i.e., Koti to Sanath Nagar on 01.11.2006.

b) The Preliminary Enquiry conducted against the 1st Respondent herein had been proved and the 1st respondent had been suspended from service and charge sheet had been issued by the 3rd Petitioner on 16.11.2006.

c) Not satisfied by the Written Explanation submitted by the 1st respondent, the 3rd petitioner ordered detailed enquiry. The 1st respondent even though had the privilege to cross examine the witnesses did not examine any of the Witnesses.

d) After submission of the enquiry report by the Enquiry Officer to the Disciplinary Authority, charges against the petitioner were proved, the Disciplinary Authority had called for objections and the respondent submitted explanation.

e) Taking into consideration all the material and also the objections of the 1st respondent, the Disciplinary Committee imposed the penalty of Removal from service and issued a Show Cause Notice of removal on 08.02.2007. The 1st respondent submitted an explanation to the show cause and with there being no fresh point worth considering, the

Disciplinary Authority had passed the final orders removing the 1st respondent from service vide order dated 23.02.2007.

f) The Appeal of the 1st respondent before the 2nd petitioner being rejected, the 1st Respondent had preferred a Review before the 1st petitioner which was also rejected on 22.10.2017.

g) The 2nd respondent tribunal in I.D. No.46 of 2009 allowed the petition filed by the 1st respondent and directed to reinstate the 1st respondent into service with continuity of service, with all consequential benefits and with full back wages. Hence the Writ Petition.

4. <u>PERUSED THE RECORD</u>

a. Paras 6 and 7 of the counter affidavit filed by the 1st respondent/workman (G.S.Bangaram) reads as under:

> "6. In reply to the grounds and case law cited in the ground are not sustainable in law. It is well settled law the labour court has ample power U/Sec. 11-A of I.D. Act to re-appreciate the material available on record, and can come to different conclusion from that of enquiry officer and can hold the charge as not proved and grant the relief. As such, the impugned award is

rightly passed and there is no any irregularities or perversity. Further the petitioners have not made out any grounds to show in the perversities over its findings or irregularities. There are no valid grounds to invite finding in the writ of certiorari. Therefore, the writ petition is liable to be dismissed.

7. I further submit that, ever since the date of removal from service I am remained unemployed, as I could not get any employment. Due to that I am facing mush hardship."

b. The order dated 10.06.2010 passed in W.P.M.P.No.16197 of 2010 in W.P.No.12853 of 2010, reads as under:

"Order:

Sri V. Narasimha Goud, takes notice for the first respondent and seeks time for filing counter affidavit.

Post after two weeks.

It is submitted that pursuant to the award of Tribunal, the workman has already reinstated into service. In that view of the matter, pending further orders, there shall be interim stay of award for back-wages on condition that the petitioner depositing 50% of the back-wages to the credit of the second respondent-Labour Court within a period of six weeks from today."

c. The order dated 12.07.2010 passed in W.V.M.P.No.2444 of 2010 in W.P.M.P.No.16197 of 2010 in W.P.No.12853 of 2010, reads as under:

ORDER :

> "In the facts and circumstances of the case, the Interim Orders granted on 10.06.2010 is made absolute, subject to deposits 50% of back-wages, and on such deposit, the respondent/vacate stay petitioner is permitted to withdraw the same, without furnishing any security."

d. The Award impugned dated 20.08.2009 passed in I.D.No.46 of 2009 on the file of the Additional Industrial Tribunal-cum-Additional Labour, Court Hyderabad, in particular, Para 10 reads as under:

> **"Para 10. The contention of the petitioner counsel is that the conductor is not supposed to leave the bus from the place where it broke down without the instructions of the superiors especially on the day when a state 'Bundh' was called by TRS.** It is an admitted fact that it was not a normal day and certain untoward incidents also happened as deposed by witnesses during the domestic enquiry, as it has come in their statements several bus tyres were deflated and stopped during the 'Bundh'. I am of the opinion that in

such circumstances the conductor may not be in a position to leave the bus to go to MSRD depot to convey personally to the D.M. about the condition of the bus. It is not as though the conductor and driver had not taken any steps to pass on the message to MSRD depot garage for sending relief van. The material on record reveals that the petitioner has been pursuing the matter every half an hour from the communication cell at Koti and each time he received reply that the relief van would be arranged. **So if there is any delay in arranging relief van to avoid inconvenience of the passenger, the delay should be attributable to the MSRD depot officials.** The petitioner cannot be blamed for that. I have perused the duties of the conductor as enumerated in operation manual and no where it is stated that the conductor should personally go to D.M. and inform about break down of buses**. I, therefore, hold that the findings of the enquiry officer are based on mere assumptions. The disciplinary authority as well as the appellate authority have not applied their mind properly and simply carried away by the findings of the enquiry officer, which is beset with perversity.** There may be loss of revenue to the corporation due to cancellation of bus. But that cannot be attributed to the petitioner. There is negligence of controller at Koti point in not pursuing the matter and there is also negligence of MSRD garage people who received the message from

the petitioner about the condition of vehicle and failed to respond promptly even after assuring that the relief van would be provided. **For all these reasons I hold that the punishment of removal is uncalled for and hence the impugned removal order passed against the petitioner is liable to be set aside and the petitioner is entitled to all consequential benefits including backwages.** This point is answered in favour of the petitioner holding that punishment of removal is totally unjustified and liable to be set aside."

DISCUSSION AND CONCLUSION:

5. This Court takes note of the fact that pursuant to the award of the Labour Court the 1st respondent was reinstated into service on 27.03.2010 and posted to Ibrahimpatnam Depot subject to the result of the present writ petition.

6. The charge framed against the petitioner is as follows:

"**CHARGE**:-

For having failed to either report to the Depot personally give message to DM, MSRD for not having arranged the relief for long time even after failure message given to Depot. Which resulted to total cancellation of service, in loss of revenue to the Corporation and also caused

inconvenience to the travelling public, which constitutes misconduct under Regulation 28 (viii) & (xxxi) of APSRTC Employees (Conduct) Regulations, 1963."

7. The main contentions putforth by the learned counsel for the petitioner are as follows:

a) The labour Court ought not to have interfered with the findings of the Enquiry Officer and relied on the judgment of the Apex Court reported in 2008 (5) SCJ 439 in Usha Breco Mazdoor Sangh v M/s Usha Breco Limited on the point that in case of material brought on record by the enquiry officer fall for re-appreciation by the Labour Court, it should be slow to interfere therewith.

b) Once domestic Tribunal based on evidence came to a particular conclusion normally it is not open to the Courts to substitute their opinion and placed reliance on the judgment of the Apex Court reported in 2009 (3) SCC page 254 in Divisional Controller, KSRTC v A.T.Mane.

c) The Additional Industrial Tribunal cum Additional Labour Court, Hyderabad committed an error in awarding full back wages without giving any finding on the income received by the 1st respondent during the relevant period on account of alternative employment. Hence awarding back-wages vide the impugned award is illegal.

8. In so far as the plea of the learned counsel for the petitioner that the Additional Labour Court erred in awarding full back wages without giving any finding on the income received by the 1st respondent during the relevant period on account of alternative employment, the view taken by the Apex Court in the case given below would apply to the facts of the present case.

9. The Apex Court in its judgment dated 27.09.1983 in Shambunath Goyal v Bank of Baroda and others at para 17 observed as follows:

> **"**The blame for not framing an issue on the question whether or not the workman was gainfully employed in the intervening period cannot be laid on the Tribunal alone. It was equally the duty of the management to

have got that issue framed by the Tribunal and adduce the necessary evidence unless the object was to make up that question at some later stage to the disadvantage of the workman as in fact it has been done. The management appears to have come forward with the grievance for the first time only in the High Court. There is no material on record to show that the workman was gainfully employed anywhere. The management has not furnished any particulars in this regard even before this Court after such a long lapse of time. The workman could have been asked to furnish the necessary information at the earliest stage. The management has not resorted to that course. The workman was not expected to prove the negative. In these circumstances, we do not think that it would be in the interest of justice to prolong any further the agony of the workman whose power to endure the suffering of being out of employment for such a long time and to oppose the management Bank, a nationalised undertaking with all the money power at its disposal in this prolonged litigation is very limited by allowing the Bank to have the advantage belatedly sought in the application dated 8.2.1979 in an industrial dispute which arose to early as in 1965. For the reasons stated above we are of the opinion that the order of the High Court could not be sustained under the facts and circumstances of the case. The appeal is accordingly allowed with costs of the workman quantified at Rs.

5,000. **The High Court's judgment is set aside and the Tribunal's award directing reinstatement of the workman with full back wages and other benefits from the date of his suspension, is restored.**

10. In so far as the plea put forth by the learned counsel for the petitioner placing reliance on two Apex Court judgments reported in 2009 (3) SCC page 254 in Divisional Controller, KSRTC v A.T.Mane and 2008 (5) SCJ 439 in Usha Breco Mazdoor Sangh v M/s Usha Breco Limited that the labour Court cannot interfere with the findings of the Enquiry Officer:-

11. This Court opines that the jurisdiction of the labour Court/Industrial Tribunal stands enlarged with the insertion of Section 11-A of the Industrial Disputes Act, 1947 and now the labour Court/Industrial Tribunal is vested with the power not only to re-appreciate the evidence recorded during domestic/departmental enquiry, but it has also the power to reverse the findings recorded by the employer on the merits of the allegations and the labour Court is also vested with the

power to substitute the punishment awarded by the employer with a lesser punishment.

12. On the question of power vesting with the Labour Court after the insertion of Section 11-A, we may observe that Section 11-A was inserted in the Act of 1947 by amendment dated 15.12.1971. Prior to the insertion of Section 11-A the courts had indicated the limitation of the jurisdiction of the Labour Court, Industrial Tribunal or the National Tribunal to interfere with the findings of guilt and the quantum of punishment awarded by the Management in Indian Iron and Steel Co. Ltd. v. Their Workmen reported in AIR 1958 SUPREME COURT 130. The Supreme Court discussed the nature of jurisdiction exercised by the Industrial Tribunal while adjudicating a dispute relating to dismissal or discharge and observed:—

> "Undoubtedly, the management of a concern has power to direct its own internal administration and discipline, but the power is not unlimited and when a dispute arises, Industrial Tribunals have been given the power to see whether the termination of service of a workman is justified and to give appropriate relief. In cases of dismissal on misconduct, the Tribunal does not,

however, act as a Court of appeal and substitute its own judgment for that of the management. **It will interfere (i) when there is want of good faith, (ii) when there is victimisation or unfair labour practice, (iii) when the management has been guilty of a basic error or violation of a principle of natural justice, and (iv) when on the materials the finding is completely baseless or perverse."**

13. In Hind Construction and Engineering Company Ltd. v. Their Workmen reported in AIR 1965 SC 917, their Lordships of the Supreme Court observed:—

"The award of punishment for misconduct under the standing orders if any, is a matter for the management to decide and if there is any justification for the punishment imposed the Tribunal should not interfere. The Tribunal is not required to consider the propriety or adequacy of the punishment or whether it is excessive or too severe. **But, where the punishment is shockingly disproportionate regard being had to the particular conduct and past record or is such as no reasonable employer would ever impose in like circumstances, the Tribunal may treat the imposition of such punishment as itself showing victimisation or unfair labour practice."**

14. In that particular case, the Supreme Court upheld interference in the quantum of punishment of dismissal by the Labour Court when it found that the punishment of dismissal for the act of absence of the employee could not have been imposed by any reasonable employer.

15. The ambit and scope of Section 11-A came to be considered by the Supreme Court in Workmen of Firestone Tyre and Rubber Co. v. The Management reported in 1973 (1) SCC 873. In that case, the Apex Court in the first place referred to the law laid down by the Court in respect of the jurisdiction of the Industrial Tribunal/Labour Court. It also referred to the statement of objects and reasons and proceeded to say:

> "The object is stated to be that the Tribunal should have power in cases, where necessary, to set aside the order of discharge or dismissal and direct reinstatement or award any lesser punishment." Their Lordships further held that, "Even a mere reading of the section, in our opinion, does indicate that a change in the law as laid down by this Court has been effected."

16. Their Lordships then took notice of the rival contentions raised on behalf of the employees and

employers and then referred to some principles of interpretation of welfare legislations and held that even after section 11A has been inserted the employer and employee can adduce evidence regarding legality and validity of the domestic enquiry, if one had been held by an employer. The Court further held that the Tribunal has to consider the evidence and come to the conclusion one way or the other. Even in cases, where an inquiry has been held by an employer and a finding of misconduct arrived at, the Tribunal can now differ from that finding in an appropriate case and hold that no misconduct is proved. The Court further observed:

> **"It has to be remembered that a Tribunal may hold that the punishment is not justified because the misconduct alleged and found proved is such that it does not warrant dismissal or discharge. The Tribunal may also hold that the order of discharge or dismissal is not justified because the alleged misconduct itself is not established by the evidence. To come to a conclusion either way, the Tribunal will have to reappraise the evidence for itself. Ultimately, it may hold that the misconduct itself is not proved or that the misconduct proved does not warrant the punishment of dismissal or**

discharge. That is why, according to us, section 11A now gives full power to the Tribunal to go into the evidence and satisfy itself on both these points. Now the jurisdiction of the Tribunal to reappraise the evidence and come to its conclusion ensures to it when it has to adjudicate upon the dispute referred to it in which an employer relies on the findings recorded by him in a domestic enquiry. Such a power to appreciate the evidence and come to its own conclusion about the guilt or otherwise was always recognised in a Tribunal when it was deciding a dispute on the basis of evidence adduced before it for the first time. Both categories are now put on a para by Section 11A."

17. On the question of quantum of punishment their Lordships held that prior to Section 11A the Tribunal had no power to interfere with the punishment imposed by the Management and it had to sustain the order of punishment imposed on the basis of proved misconduct unless it was harsh indicating victimization, but, under Section 11A, **even if misconduct is held to be proved, the Tribunal may be of the opinion that the order of discharge or dismissal for the particular act of misconduct is not justified. The Tribunal may hold that the proved misconduct does not**

import punishment by way of discharge or dismissal and it can under such circumstances, award to the workman lesser punishment.

18. In Para 45 of the judgment, their Lordships of the Supreme Court took notice of the departure made by the Legislature in certain respects in **the law laid down by the Supreme court by observing that, for the first time power has been given to the Tribunal to satisfy itself whether misconduct is proved. This is particularly so even when findings have been recorded by an employer in an inquiry properly held. The Tribunal has also been given power to interfere with the punishment imposed by an employer. The proviso to Sec. 11-A emphasizes that the Tribunal has to satisfy itself one way or the other regarding misconduct, punishment and the relief to** be granted to the workman only on the basis of material on record before it.

19. In para 58 of the judgment their Lordships again reiterated this position by making following observations:

"We have already expressed our view regarding the interpretation of Section 11A. We have held that the previous law, according to the decisions of this Court, in cases where a proper domestic enquiry had been held, was that the Tribunal had no jurisdiction to interfere with the findings of misconduct except under certain circumstances. The position further was that the Tribunal had no jurisdiction to interfere with the punishment imposed by an employer both in cases where the misconduct is established in a proper domestic enquiry evidence adduced before it. These limitations on the powers of the Tribunals were recognized by this Court mainly on the basis that the power to take disciplinary action and impose punishment was part of the managerial functions. That means that the law, as laid down by this Court over a period of years, had recognised certain' managerial rights in an employer. We have pointed out that this position has now been changed by Section 11A. **The section has the effect of altering the law by abridging the rights of the employer inasmuch as it gives power to the Tribunal for the first time to differ both on a finding of misconduct arrived at by an employer as well as the punishment imposed by him."**

20. In Gujarat Steel Tubes Ltd. v. Gujarat Steel Tubes Mazdoor Sabha reported in 1980 (2) SCR 146, by

majority decision the Supreme Court held that, while exercising power under section 11-A the Tribunal can examine the validity of an order of discharge simplicitor and if it appears that purported exercise of power to terminate service of the employee was in fact the result of misconduct alleged against the workman, the Tribunal will be justified in dealing with the dispute on the basis that the order of discharge is in effect an order of dismissal; and if the Industrial Court is satisfied that the order of discharge is punitive or that it amounts to victimisation or unfair labour practice it can interfere with the same.

21. In Jaswant Singh v. Pepsu Roadways Transport Corporation reported in 1984(1) SCC 35, their Lordships of the Supreme Court upheld an award of the Labour Court directing reinstatement of the driver of the Road Transport Corporation in service who had been dismissed from service because, in view of the Supreme Court, the opinion formed by the Labour Court that the punishment of dismissal was rather heavy and

was not called for, did not warrant interference by the Supreme Court.

22. In Management of Hindustan Machine Tools v. Mohammed Usman reported in 1984 (1) SCC 152, their Lordships of the Supreme Court upheld the award passed by the Labour Court of substituting the penalty of dismissal from service by stoppage of increments for two years on the basis of its finding that the punishment of termination is disproportionately heavy.

23. In Ved Parkash v. Delton Cables India (P.) Ltd. Reported in 1984(2) SCC 569, a three Judges Bench of the Supreme Court declared that dismissal of an employee on the charge of abuse of some workers and officers of the Management by him was unjustified. The Supreme Court held that, no responsible employer would ever impose in like circumstances, the punishment of dismissal to the employer and that victimisation or unfair labour practice could well be inferred from the conduct of the Management in awarding the extreme punishment of dismissal.

24. In Jitendra Singh v. Shri Baidynath Ayurved Bhawan Ltd. Reported 1984(3) SCC 5, while examining the scope of Sec. 11-A the Supreme Court observed:

> "Wide discretion is vested in the Tribunal under this provision and in a given case on the facts established, the Tribunal can vacate the order of dismissal or discharge and give suitable direction."

25. In Baldev Singh v. Presiding Officer, Labour Court reported in 1986 (4) SCC 519, the Supreme Court upheld the order passed by the Tribunal setting aside an award the termination of service of a driver of the Roadways for misconduct which resulted in some loss to the Corporation.

26. In Rama Kant Mishra v. State of U.P. reported 1982 (3) SCC 346, their Lordships of the Supreme Court interfered with an award of the Labour Court which had upheld the dismissal of an employee found guilty of using indiscreet, improper and abusive language and threatening postures. The court held that mere use of such language without any other misconduct during 14 years of service did not warrant penalty of dismissal

from service. The court substituted the penalty of dismissal by withholding of two increments with future effect.

27. In view, of the above discussed legal position, this Court has no hesitation to hold that the Labour Court/Industrial Tribunal is vested with the power to consider the question of fairness of the inquiry. It also got the power to re-appreciate the evidences produced during domestic/departmental inquiry and a further power to interfere with the punishment awarded by the employer where it is found that the employer has not considered the past record of the employee, the nature of the charge etc. while imposing the punishment. If the Labour Court/Industrial Tribunal, on an objective consideration of the record is satisfied that the order of punishment is shockingly disproportionate or patently unreasonable, it can interfere with the quantum of punishment.

28. On a bare perusal of para 10 of the order impugned dated 20.08.2009 in I.D.No.46 of 2009 this

Court opines that the Labour Court after appreciating the facts and the evidence on record came to a reasonable conclusion that there is no fault on the part of the first respondent herein and the punishment of removal imposed on the 1st respondent was uncalled for and unwarranted and set aside the same with a clear observation that the 1st respondent is entitled to all consequential benefits including back wages, on the labour Court coming to a conclusion that the employer did not at all apply its mind to the findings recorded by the Inquiry Officer before it recorded a conclusion that the charge levelled against the 1st respondent was proved beyond doubt and also did not apply its mind on the issue of punishment of removal, and straightaway concluded that the punishment of removal was warranted and that the employer did not consider the past service of the 1st respondent and his conduct the nature of charge etc. while taking a decision to impose the extreme penalty of removal.

29. A bare perusal of the Award Impugned dated 20.08.2009 in I.D.No.46 of 2009 clearly indicates a

clear finding that the labour Court after perusing the material on record came to the conclusion that the 1st respondent had been pursuing the matter every half an hour from the communication Cell at Koti and each time he received reply that the relief van would be arranged and the delay in arranging the relief van cannot be attributed to the 1st respondent and that the enquiry officer findings against the petitioner were based on mere assumptions and further that the disciplinary authority and the appellate authority had not applied their mind properly and the same amounted to perversity and that the punishment of removal imposed against the 1st respondent is totally unjustified since the labour Court concluded that loss to the corporation in the present circumstances could not have been attributed at all to the 1st respondent herein since he was not negligent in discharge of duties as Conductor.

30. Taking into consideration all the above referred facts and circumstances and the law laid down by the Apex Court referred to and discussed above, this Court opines as follows :

i) That the judgements relied upon by the Counsel for the Petitioner on the point that the Labour Court cannot interfere with the findings of the Enquiry Officer have no relevance to the facts of the present case.

ii) That there is no illegality in the award passed on 20th August, 2009 made in I.D.No.46 of 2009 on the file of Additional Industrial Tribunal cum Additional Labour Court, Hyderabad published on 23.11.2009 in G.O.Rt.1587, Labour Employment Training and Factories, (LAB-I), Department, as per reasoning and discussion at para 28 and 29 above.

iii) That after the insertion of Section 11-A in the Industrial Disputes Act, 1947 the Labour Court has right to sit in appeal over the findings of the Inquiry Officer which it earlier could not do and in the present case the Labour Court exercised its jurisdiction conferred upon it by Section 11(A) of the Act.

iv) That the Labour Court can reassess and re-appreciate the evidence and it has done so in the present case, and then the Industrial Tribunal opined that the order of the dismissal

of the Petitioner is punitive and unwarranted and set aside the same.

v) **When removal from service is held to be illegal and invalid the next question is whether the victim of such action is entitled to back wages. Ordinarily it is well settled that if termination of service is held to be bad, no other punishment in the guise of denial of back wages can be imposed and therefore, it must as a necessary corollary to follow that he would be entitled to all the back wages on the footing that he has continued to be in service uninterruptedly.**

vi) **There is no illegality in the Impugned Order passed on 20.08.2009 in I.D.No.46 of 2009 by the Labour Court setting aside the removal order passed against the 1st Respondent and further observing that the Petitioner is entitled to all consequential benefits including backwages and the said Award impugned dt. 20.08.2009 passed in I.D.No.46 of 2009 on the file of the Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad, warrants no interference by this Court under Article 226 of the Constitution of India. The**

Writ Petition is accordingly dismissed since the same is devoid of merits.

31. The order dated 12.07.2010 passed in WVMP No.2444 of 2010 in WPMP No.16197 of 2010 in W.P.No. 12853 of 2010 stands vacated.

Miscellaneous petitions pending, if any, shall stand closed. However, there shall be no order as to costs.

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SUREPALLI NANDA, J

Date: 05.06.2023
Note: L.R. Copy to be marked.
b/o
kvrm