

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.4446 OF 2009

ORDER :

This writ petition is filed against Award dated 09.07.2011 in I.D.No.32 of 1998 passed by the 2nd respondent wherein the Labour Court set aside the order of removal passed against the petitioner and directed for his fresh appointment.

Learned counsel for the petitioner submits that the Labour Court having found that the due to lack of sufficient light, it was very difficult for the petitioner to punch the tickets and close the SR and also observed that the punishment imposed was harsh and shockingly disproportionate and would have granted at least continuity of service. He also submits that non punching of tickets is only a mistake and it does not amount to misconduct. As such, the order of the Labour Court is liable to be modified to the extent of granting continuity of service since the petitioner has lost 16 years of service. He also submits that the Labour Court has not properly exercised the discretion under Section 11A of the Industrial Disputes Act, having found that the punishment imposed is harsh and shockingly disproportionate.

On the other hand, learned Standing Counsel appearing for the respondents Corporation submits that though the order of removal is issued in the year 1990 and same is confirmed by the authorities in the year 1992, the petitioner preferred the I.D No.32 of 1998 i.e., after a period of five years and after the Award is passed, the present writ petition is preferred in the year 2009, as such, no relief can be granted.

It is to be seen that the Labour Court upheld the findings of the Enquiry Officer while considering the gravity of misconduct while exercising the discretion under Section 11-A of the Industrial Disputes Act observed that due to lack of sufficient light, it was very difficult for the petitioner, who is conductor to punch the tickets and close the SR. The Labour Court, after taking all these factors into consideration, have ordered for fresh appointment of the petitioner into service.

No doubt, petitioner has lost 16 years of service because of his fresh appointment. The Labour Court observed that there is no misappropriation on the part of the petitioner by non punching the tickets. Since the petitioner was removed from service in the year 1990, no useful purpose would be served in remanding the matter for fresh consideration.

In view of the above circumstances, this Court feels that continuity of service can be granted only for the purpose of payment of gratuity. The Award of Labour Court dated 09.07.2001 in I.D.No.32 of 1998 is modified and continuity of service is granted for the purpose of payment of gratuity to the petitioner at the time of his superannuation.

Accordingly, this writ petition is disposed of. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, shall stands closed.

A.RAJASHEKER REDDY, J

11.11.2016
kvs

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Date: 11 .11.2016

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