

THE HONBLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.8429 OF 2001

Dated:23.11.2017

Between:

APSRTC, rep., by its Managing Director,
Mushirabad, Hyderabad and another

.. Petitioners

And

S. Sharfuddin, E.575131, Casual
Conductor, APSRTC, Guntakal
Bus Depot and another

.. Respondents



The Court made the following:

THE HONBLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.8429 OF 2001

ORDER:

This Writ Petition is filed challenging the award dated 21.12.2000 in I.D.No.95 of 1998 passed by the Industrial Tribunal-cum-Labour Court, Anantapur, wherein the Tribunal allowed the I.D. filed by the 1st respondent herein.

2. Heard Sri A. Rama Rao, learned Standing Counsel for the petitioners, and Sri M.V. Pratap Reddy, learned counsel for the 1st respondent.

3. The case of the petitioners - Corporation is that the 1st respondent was appointed as a Conductor on casual basis in the year 1995. While he was conducting the bus on 28.09.1996, a surprise check was taken place, the checking squad found cash and ticket irregularities, and a charge sheet was issued to him on 08.10.1996. The 1st respondent submitted his explanation and not satisfied with the said explanation, the petitioners - Corporation has ordered for domestic enquiry and based on the findings of the enquiry officer, the 1st respondent was removed from service on 14.05.1997, against which, the 1st respondent preferred an appeal before the appellate authority and same was rejected on 26.02.1998. Challenging the removal order as well as the appellate authority's order, the 1st respondent has filed I.D.No.95 of 1998 and the Tribunal had passed award dated 21.12.2000 directing the Corporation to reinstate the 1st respondent into service with continuity of service by granting

notional increments, however, without any back wages. Aggrieved by the said award, the present Writ Petition is filed.

4. While admitting the Writ Petition, this Court passed orders on 26.04.2001 granting interim stay as prayed for on condition of reinstating the 1st respondent reinstated into service. Pursuant to the said orders, the 1st respondent was reinstated into service and is being continued.

5. Learned counsel for the petitioners – Corporation would submit that the Tribunal had given a finding that the charges against the 1st respondent are proved and he was inflicted with the punishment on the ground of proportionality. In such an event, the Tribunal ought not to have granted continuity of service and notional increments.

6. Learned counsel for the 1st respondent, on the other hand, contends that there were large scale violations while conducting domestic enquiry and no enquiry report was furnished to the 1st respondent and the Tribunal had specifically recorded that no opportunity was given to the 1st respondent during the course of conducting departmental enquiry.

7. Be that as it may, when the 1st respondent was working on casual basis, he was removed from service and the Tribunal had passed an award directing his reinstatement and the fact that the petitioners have reinstated the 1st respondent into service, the question of granting notional increments to a casual employee would not arise. So also, when there are allegations of cash and ticket irregularities and the Tribunal has intervened in the

disciplinary proceedings only on the ground of proportionality, the question of granting of continuity of service to the 1st respondent appears to be perverse. Therefore, the finding recorded by the Tribunal that the 1st respondent is entitled for continuity of service and notional increments are unsustainable.

8. Accordingly, the order of the Tribunal in respect of granting continuity of service and notional increments, is set aside, and the order of the Tribunal in respect of reinstatement of the 1st respondent into service, is confirmed.

9. The Writ Petition is accordingly disposed of. There shall be no order as to costs.

Miscellaneous Petitions, if any, filed in this Writ Petition shall stand closed.

ABHINAND KUMAR SHAVILI, J

Date:23.11.2017

KH