

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.4135 of 2001

ORDER:

This writ petition is filed seeking writ of certiorari calling for records relating to and in connection with I.D.No.96 of 1999 (Old I.D.No.10/ 97) dated 22.2.2000 passed by the Industrial Tribunal-I and quash or set aside the same only to the extent of denying continuity of service, back wages and attendant benefits and sought for consequential relief of continuity service, back wages and attendant benefits.

2. Heard Sri G. Ravi Mohan, counsel for the petitioner and Sri N.Vasudeva Redy, counsel for the second respondent.

3. It is the case of the petitioner that he was initially appointed as a casual driver in the year 1995. While he was discharging duties, he fell sick due to jaundice and has applied for medical leave from 21.7.1995 to 3.8.1995 to the second respondent and requested to grant leave, but the second respondent had not accepted the leave application and construed the said absence as misconduct and initiated disciplinary proceedings by conducting enquiry and, finally, imposed a major punishment of removal from service on 8.1.1996. Questioning the said order of removal, the petitioner herein filed I.D.No.10 of 1997, which was subsequently renumbered as I.D.No.96 of 1999, before the Industrial Tribunal-I, Hyderabad. Finally, the Industrial Tribunal-I was pleased to pass award on 22.2.2000 directing that the petitioner herein should be reinstated into service by setting aside the order of removal, but, however, the Tribunal directed that the petitioner should be appointed as fresh casual driver within 30 days from the publication of the award. The Tribunal however, denied continuity of service, back wages and other attendant benefits. Hence this writ petition.

4. Learned counsel for the petitioner contends that when once the Tribunal had held that the order of removal was bad, in all fairness, the Tribunal ought to have at-least granted continuity of service, because the petitioner was illegally removed from service for unauthorized absence. As the petitioner had submitted leave application by duly enclosing medical certificate, second respondent ought not to have treated absence of 12 days as unauthorized and imposed harsh punishment of removal from service.

5. On the other hand, learned standing counsel for the second respondent would contend that the Tribunal had rightly passed the award to the extent of denying back wages, continuity of service and other attendant benefits. He submitted that in pursuance of the award passed by the Tribunal, the petitioner was inducted into service as Driver on 4.4.2001 and subsequently his services were also regularized by the second respondent during 2001 after completion of one year service and, therefore, no interference is called for from this Court to modify the award passed by the Industrial Tribunal.

6. This Court has considered the rival submissions made by the parties and is of the opinion that when once the petitioner had submitted leave application to grant medical leave by producing medical certificates, the second respondent was not right in treating 12 days absence as unauthorized and proceeding to take disciplinary action. Be that as it may, when once the Industrial Tribunal-I had come to a conclusion that the removal order passed by the second respondent was said to be illegal, at-least the Industrial Tribunal-I ought to have granted continuity of service only for the purpose of calculating pensionary benefits. However, this Court makes it very clear that the petitioner is entitled for continuity of service only for the purpose of pensionary

benefits and other terminal benefits but not for seniority, promotion and other service benefits.

The writ petition is accordingly disposed of. No order as to costs.

Miscellaneous petitions pending, if any, in this writ petition shall stand closed.

ABHINAND KUMAR SHAVILI, J

Date: 28/ 11/ 2017
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