

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 11133 of 2001

ORDER:

This writ petition is filed, under Article 226 of the Constitution of India, by the petitioner – Corporation seeking a writ of certiorari to call for the records in I.D.No.161 of 2000 on the file of the Labour Court-I, Hyderabad, and quash the award dated 15.09.2000 passed in the said I.D.

2. Heard Mr. N. Vasudeva Reddy, learned standing counsel for the petitioner-Corporation, and Mr. A.K. Jayaprakash Rao, learned counsel for the respondent.

3. The case of the petitioner-Corporation is that the respondent was appointed as driver in their Corporation in the year 1995. While he was working, charge sheets were issued to him on 06.05.1995 and 28.08.1995 for unauthorized absence from duty. Having found that the explanations submitted by the respondent-workman to the charge sheets were unsatisfactory, an enquiry was ordered to be conducted into the charges. The Enquiry Officer, on the basis of the evidence available on record, submitted his report holding the charges leveled against the respondent-workman proved. Basing on the same, the petitioner-Corporation issued a show-cause-notice of removal on 12.12.1995 calling upon the respondent-workman to submit his explanation within 15 days. However, the respondent did not submit any explanation. Therefore, he was removed from service vide

proceedings dated 30.05.1996. Questioning the same, the respondent-workman preferred I.D.No.161 of 2000 before the Labour Court-I, Hyderabad. The Labour Court partly allowed the I.D., by modifying the punishment of removal of workman from service into postponement of two annual increments with cumulative effect and denial of 50% back wages as a measure of punishment, and directing the petitioner to reinstate the petitioner into service with continuity of service, 50% of back wages and other attendant benefits, by order dated 15.09.2000. Hence, the writ petition.

4. The Labour Court gave a concurrent finding that the respondent-workman is guilty of unauthorized absence from duty, but while passing the award, it failed to appreciate the fact that the respondent-workman had approached the Court after four years, and because of the delay in approaching the Court, he is alone to be blamed, though he is entitled to pursue his remedy even after four years under the Industrial Disputes Act, 1947. But at the same time, the petitioner-Corporation should not be burdened with the payment of back wages, when the fault is at the instance of the workman. Therefore, the order of the Labour Court, in respect of a direction to the petitioner-Corporation to pay 50% back wages to the respondent-workman is set aside and the order of the Labour Court in respect of postponement of two annual increments with cumulative effect, reinstatement of the workman into service with continuity of service,

and other attendant benefits, is confirmed. The Writ Petition is, accordingly, disposed of.

Consequently, miscellaneous petitions if any pending in the writ petition shall stand dismissed. There shall be no order as to costs.

ABHINAND KUMAR SHAVILI, J

27th November, 2017
cbs



HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI



WRIT PETITION No. 11133 of 2001
(disposed of)

27th November, 2017

cbs