

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.20910 OF 2001

ORDER

Heard Sri K.Venkateswara Rao, learned counsel appearing for the petitioner and Sri B.Mayur Reddy, learned Standing Counsel appearing for the respondent-Corporation.

This writ petition is filed seeking to issue a Writ of Certiorari calling for the records relating to and connected with I.D.No.103 of 1998, dated 7.05.2001 passed by the Industrial Tribunal-cum-Tribunal, Warangal, and consequently, direct the respondent-Corporation to reinstate the petitioner into service.

It is the case of the petitioner that he was appointed as a Conductor on 18.3.1981 in the respondent-Corporation; that while conducting the bus bearing No.APZ 6500, a check was exercised by the checking officials and certain cash and ticket irregularities were noticed; that the said act committed by the petitioner was construed as mis-conduct; that disciplinary proceedings were initiated against the petitioner; that he was removed from service *vide* proceedings dated 09.11.1981.

Challenging the same, the petitioner preferred I.D.No.103 of 1998 before the Industrial Tribunal-cum-Tribunal, Warangal, under Section 2-A (2) of the Industrial Disputes Act, 1947 (for short 'the Act').

Based on the material placed before it, the Tribunal has framed three points for consideration, which read as under:

- (1) Whether the petitioner was given fair and reasonable opportunity during the domestic enquiry?
- (2) Whether the charges framed against the petitioner are proved, according to law and material on record?
- (3) Whether the punishment imposed against the petitioner in domestic enquiry is disproportionate to the charges proved against the petitioner in the given facts of the matter?

The Tribunal had answered all the points against the petitioner-workman and passed an Award on 7th May, 2001.

Learned counsel appearing for the petitioner submits that though there is a delay of 17 years in approaching the Tribunal, there is no period of limitation as per Section 2-A(2) of the Act and on that ground, the Tribunal, ought not to have non-suited the petitioner and allowed the ID and ought to have set aside the order of removal and reinstated the petitioner into service.

On the other hand, learned Standing Counsel appearing for the respondent-Corporation contends that the Tribunal had held that the respondent-Corporation has given fair and reasonable opportunity to the petitioner and the Tribunal has given a specific finding that the charge in the enquiry was proved and all principles of natural justice were extended to the petitioner while imposing the punishment of removal on the proportionality, and passed a Nil Award. He further contends that this Court should not interfere with the matter where the Tribunal has rightly come to a conclusion in passing the Nil Award.

I have considered the rival submissions made by the learned counsel on either side.

The Tribunal had appreciated the entire case on merits and declined to exercise its power under Section 11-A of the Act and passed a reasoned order and there cannot be a universal principle in all cases. The Tribunal should invoke its power under section 11-A of the Act in all cases unless and until the order of the Tribunal is held to be perverse and not supported by reasons. This Court

under Article 226 of the Constitution of India will intervene but not in each and every case.

Admittedly, the Tribunal has given a specific finding that the charge framed against the petitioner was proved and the procedure in the domestic enquiry was fully complied with.

In view of the same, I do not find any reasons to interfere with the Award passed by the Tribunal and there are no merits in the Writ Petition.

At the fag end, learned counsel appearing for the petitioner contends that the petitioner had expired during the pendency of the writ petition and that the respondent-Corporation has not even paid the provident fund contributions made by the petitioner either to him or to his family members.

If it is so, the family members of the petitioner are at liberty to submit an application to the respondent-Corporation for release of the benefits, if any and on filing such an application, the respondent-Corporation, shall settle the benefits to which the deceased is entitled to and pay the same to his family members, within a period of four weeks thereafter.

With these observations, the Writ Petition is dismissed. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

19th December, 2017
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