

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.20952 OF 2001

ORDER

Heard Sri S.A.K.Mynuddin, learned counsel appearing for the petitioner and Sri A.Ravi Babu, 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.171 of 1999, dated 16.4.2001 and quash the same by holding it as arbitrary and illegal, and consequently, to direct the 2<sup>nd</sup> respondent to reinstate the petitioner into service with continuity of service, with all attendant benefits and back wages.

It is the case of the petitioner that he was appointed as casual Driver in the respondent-Corporation in 1987; that his services were regularized in 1989; that during January, 1992, as the petitioner was suffering from typhoid, he had applied leave from 13.3.1992 to 21.3.1992; that initially he was treated in the RTC hospital at Tarnaka; that subsequently he has taken treatment from a private doctor; that the respondent-Corporation has

construed the said absence as mis-conduct; that issued charge sheet on 29.4.1992 alleging that the petitioner was allegedly unauthorized absent from duties; that the respondent-Corporation had initiated enquiry; that after conducting detailed enquiry, passed an order of removal on 15.06.1992; that the petitioner has challenged the same by filing I.D.No.171 of 1999 and that the Industrial Tribunal-cum-Labour Court, Godavarikhani, had passed a Nil Award on 16.4.2001.

Learned counsel appearing for the petitioner submits that the Tribunal had erred in not setting aside the orders of removal and not reinstating the petitioner into service. Learned counsel sought a direction from this Court to set aside the order passed by the Tribunal and reinstate the petitioner into service as the petitioner had not committed any misconduct and there was a genuine reason that he was suffering from typhoid which necessitated him to abstain from duties.

Learned Standing Counsel appearing for the respondent-Corporation contends that whereabouts of the petitioner are not known; that without applying leave, the petitioner had absented from duties from 13.3.1992 to

21.3.1992; that notices were sent to the petitioner to come and report to duty, but the petitioner has not bothered; that the disciplinary authority having waited for long time, had initiated disciplinary proceedings against the petitioner; that after conducting the detailed enquiry only, the petitioner was removed from service in 1992 for the proven misconduct; that the Tribunal has rightly denied to interfere with the matter; that the petitioner has approached the Tribunal only in 1999 with a delay of 7 years, on that ground itself, it should not interfere with the order passed by the disciplinary authority.

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

The Tribunal has not committed any error in passing the order impugned, but only thing is, it declined to exercise its power under Section 11-A of the Industrial Disputes Act, 1947 for a valid reason. It is not the case of the petitioner that he reported to duty and the respondent-Corporation has not allowed him to duty.

A perusal of the order impugned discloses that the respondents have complied with the principles of natural justice, and ample opportunity was given to the petitioner

before the enquiry officer and it is the petitioner, who has not availed those opportunities. The disciplinary authority has rightly imposed the punishment of removal from service by treating the petitioner's absence from duty as 'unauthorized absence'. There are no merits in this writ petition.

Accordingly, the Writ Petition is dismissed. No costs.

Miscellaneous petitions, if any, pending shall stand closed.



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JUSTICE ABHINAND KUMAR SHAVILI

*20<sup>th</sup> December, 2017*  
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