

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 14652 of 2004

ORDER:

This writ petition is filed seeking a writ of certiorari calling for the records, relating and connected to the impugned Orders passed in LCID.No.67 of 2002, dated 27.01.2003 by the 2nd Respondent, and set aside the same, as illegal and arbitrary, and also for a consequential direction to reinstate the Petitioner into service with full back-wages and continuity of service.

2. Subsequently, the main prayer was amended vide Orders dt. 03.09.1995 in WPMP.No.30272 of 2014, adding, “and to set aside the finding of the Tribunal in Para.No.9 of the Award dated 27.01.2003 that ‘But sufficient suspicion was thrown on the Petitioner and more so after the recovery of some of electrodes and also’ it can only be said that there is a web of suspicion against the petitioner” in continuity of the main prayer.

3. Heard Smt. MSVS Sudha Pani, counsel for the petitioner and Smt. V. Uma Devi, counsel for the Respondent No.1.

4. It is submitted by the counsel for the petitioner that the Petitioner was initially appointed as General Duty Attender in the 1st Respondent Organization in 1973 and later promoted as Senior Material Issuer. After rendering nearly 26 years of service, the Respondent-Management has alleged that the Petitioner had involved himself in the theft of 410 Kgs., of electrodes along with three other workers and initiated disciplinary proceedings against the Petitioner. The 1st Respondent had issued a charge sheet dated 04.12.1999 for

which the Petitioner has submitted his explanation on 06.12.1999; but not satisfied with the same, the 1st Respondent had initiated departmental enquiry and appointed an Enquiry Officer. The Enquiry Officer, after conducting enquiry, held that the charge is proved, and based upon the said finding, the 1st Respondent had discharged the Petitioner from service on 31.03.2001, as a disciplinary measure for the proven misconduct. Challenging the said orders of discharge, the Petitioner had filed I.D.No.67 of 2002 before the 2nd Respondent – Central Government Industrial Tribunal-cum-Labour Court, Hyderabad. The Tribunal had considered the entire case and passed an Award on 27.01.2003 to the effect that the Respondent-Management has lost confidence in the Petitioner and instead of reinstatement the Tribunal has ordered that the Petitioner is entitled for ten months of full gross salary, as per his last pay drawn. Challenging the same, the present writ petition is filed.

5. The contention of the Petitioner is that he has rendered more than 26 years of service and only on the finding that the Management has lost confidence, the Tribunal has declined to set aside the orders of discharge, and denied the reinstatement to the Petitioner. The learned counsel for the petitioner submits that in similar cases, vide W.P.No.19664 and 19684 of 2004, dated 22.11.2003, this Court directed that the petitioners therein be paid the terminal benefits and also granted continuity of service from the date of their suspension till the date of the award, but however, it is held that the petitioners are not entitled for any back-wages. Challenging the said orders, the Management has carried the matter in appeal, vide W.A.No.561 of 2004, wherein a Division Bench of this Court by its

judgment, dated 09.06.2014, has modified the Orders of the learned single Judge. In that case, the Respondent-Management has not disputed the correspondence between the petitioner therein and the Management, and at one point of time, the Management has agreed to pay a sum of Rs.98,253/- to the workman towards the retrial benefits, but the workman in that case was seeking more than retrial benefits. In those set of circumstances, the Division Bench of this Court directed the Management 'to pay the amount representing the retrial benefits to the workman duly taking into account the legal notice said to have been issued by the workman on 24.02.2014, within six weeks from that date, and after receipt of the amount, as directed, if the workman is of the view that any amount was not paid to him under any particular head, it shall be open to him to make a representation in that behalf, and, as and when such representation is made, the Management shall take appropriate action thereon, within two weeks thereafter'.

6. The learned counsel for the Petitioner submits that in the instant case, the Petitioner has not submitted any representation, and therefore, an opportunity may be granted to the petitioner to submit a representation seeking retrial benefits, as it was extended in the above writ appeal, and requests the Court to pass appropriate orders in terms of the judgment of the Division Bench in the above writ appeal. On the other hand, the learned counsel for the Respondent-Management has not disputed the above facts.

7. In view of the above, this writ petition is disposed of permitting the Petitioner to make a representation to the Respondent-

Management for grant of retrial benefits, as was done in the case of workman in W.A.No.561 of 2014; and upon such representation is being made by the Petitioner, the Respondent-Management should consider the same and pass appropriate orders, as per law, and as per the observations and directions of the Division Bench in the judgment in W.A.No.561 of 2014, dated 09.06.2014, within two weeks from the date of receipt of such representation.

8. With this direction, the writ petition is disposed of. As a sequel, the miscellaneous applications pending, if any, shall stand closed. There shall be no order as to costs.

December 26, 2017

Kv

Abhinand Kumar Shavili, J



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