

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.13854 OF 2004

ORDER

Heard Sri V.Raja Gopal Reddy, learned counsel appearing for the petitioner and Sri Aravala Rama Rao, learned Standing Counsel appearing for the 1st respondent-Corporation.

This writ petition is filed seeking to issue a Writ of Certiorari to call for the records relating to and connected with the impugned Award dated 4.2.2004 passed in I.D.No.84 of 2001 by the Industrial Tribunal-cum-Labour Court, Ananthapur, and quash the same only to the extent of denying back wages and other punishments imposed by the Tribunal.

It is the case of the petitioner that while working as a Conductor in the 1st respondent-Corporation, he had availed leave due to un-avoidable circumstances, such as domestic and health conditions; that initially the respondent-Corporation sanctioned the leave; that the petitioner sought extension of leave by submitting leave application, but the same was not sanctioned; that the respondent-Corporation has construed the absence of the petitioner for the period for which leave was not sanctioned, as mis-conduct; that the respondent-Corporation initiated departmental proceedings

and after conducting detailed enquiry, imposed a major punishment of removal from service *vide* order dated 1.2.2000. The petitioner had preferred an appeal before the appellate authority, which also confirmed the order of removal, by rejecting the appeal on 4.1.2001. Thereafter, challenging the removal order dated 1.2.2000, the petitioner had preferred I.D.No.84 of 2001 before the Industrial Tribunal-cum-Labour Court, Ananthapur, under Section 2 (A) 2 of the Industrial Disputes Act, 1947 (for short 'the Act'). The Tribunal, has passed an Award on 4.2.2004 by setting aside the removal order, directing the respondent-Corporation to reinstate the petitioner into service without back wages and to impose the penalty of deferment of annual grade increment for a period of two years with cumulative effect and reduce the seniority of the petitioner by 100 places. Challenging the same, the present writ petition is filed.

Learned counsel appearing for the petitioner submits that the Tribunal has not given any cogent reasons for denying the back wages and for imposing multiple punishments such as deferment of annual grade increment for a period of two years with cumulative effect and reducing the seniority of the petitioner by 100 places. Learned counsel further submits that the petitioner had retired from service

and now he is aged about 84 years and hence, seeks indulgence of this Court to allow the writ petition by granting back wages and set aside the punishment of deferment of annual grade increment for a period of two years and restore the seniority of the petitioner.

On the other hand, learned counsel appearing for the respondent-Corporation contends that the Tribunal has rightly upheld the findings of the Enquiry Officer, passed the said Award denying back wages as the petitioner was un-authorizedly absent for long spells; that in those circumstances, the Tribunal has imposed the punishment of deferment of annual grade increment for a period of two years with cumulative effect, reduced the seniority of the petitioner by 100 places, and therefore, the writ petition is liable to be dismissed.

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

A perusal of the Award passed by the Tribunal discloses that the Tribunal has come to the rescue of the petitioner on the ground that the sanctioned leave was also counted towards un-authorized absence, and exercised the powers under Section 11-A of the Act, set aside the punishment of removal and ordered reinstatement. To that extent the

Tribunal was right, but in respect of further direction to the respondent-Corporation to impose punishment of deferment of annual grade increment for a period of two years with cumulative effect and reduce the seniority of the petitioner by 100 places, the approach of the Tribunal was nothing but imposing multiple punishments.

In my considered opinion, ends of justice would be met if the punishment of deferment of annual grade increment for a period of two years with cumulative effect and reduction of seniority by 100 places is set aside.

Accordingly, the award passed by the Tribunal to the extent of imposing the punishment of deferment of annual grade increment for a period of two years with cumulative effect and reduction of seniority by 100 places is set aside. The Award, insofar as reinstatement of the petitioner into service without back wages is concerned, is confirmed.

With the above observations, the Writ Petition is disposed of. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

13th December, 2017
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