

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.16188 OF 2001

ORDER

This writ petition is filed seeking to issue a Writ of Certiorari calling for the records relating to and connected with the Award dated 24-09-1991 passed in I.D.No.240 of 1989 by the Industrial Tribunal-cum-Labour Court, Warangal, and quash or set aside the same by holding it as arbitrary and illegal and consequently to direct the respondent to reinstate the petitioner into service with full back wages, continuity of service and with all attendant and service benefits.

Heard Sri G.S.S.Siva Kesava, learned counsel appearing for the petitioner and Sri B.Mayur Reddy, learned Standing Counsel appearing for the 1st respondent.

It is the case of the petitioner that he was appointed as Conductor in the 1st respondent-Corporation on 10-01-1983. While so, on 12-03-1985, the checking officials, conducted a surprise check, and found that he had indulged in cash and ticket irregularities. His conduct was construed as a misconduct and after conducting regular departmental enquiry, the respondent-Corporation imposed the punishment of removal from service on 19-10-1985. Aggrieved by the same, he preferred an appeal and the same was rejected.

Challenging the same, he raised I.D.No.240 of 1989 before the Labour Court, Warangal, which in turn, had dismissed the same *vide* order dated 24.09.1991. Hence, the present writ petition is filed.

Learned counsel appearing for the petitioner contends that the Labour Court has not considered the fact that the disciplinary authority had imposed the major punishment of removal from service, which is shockingly disproportionate to that of the misconduct as alleged. He further contends that though the Labour Court had ample power to exercise its power under Section 11-A of the Industrial Disputes Act, 1947 (for short 'the Act'), it had mechanically passed the Award rejecting the I.D.

Learned Standing Counsel appearing for the 1st respondent submits that the disciplinary authority has rightly imposed the punishment of removal for the proved misconduct in the enquiry against the petitioner and that the Labour Court had rightly exercised its power under Section 11-A of the Act and dismissed the said ID and hence, no interference is called for by this Court.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that in the entire career of the petitioner, except the said

misconduct, he had not indulged in any other misconduct. Therefore, the Labour Court ought to have interfered with the punishment imposed by the disciplinary authority on the ground of proportionality. The punishment imposed against the petitioner is shockingly disproportionate to that of the charges levelled against him. Hence, ends of justice would be met if the respondent-Corporation is directed to reinstate the petitioner into service as Conductor afresh.

Accordingly, the Writ Petition is disposed of directing the respondent-Corporation to reinstate the petitioner into service as Conductor afresh, without back wages and continuity of service. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

21st August, 2018-
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