

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 23443 of 2004

ORDER :

1. This writ petition is filed seeking to issue a writ of Certiorari calling for the records relating to and connected with I.D.No.98 of 2000 on the file of the Industrial Tribunal-cum-Labour Court at Warangal, and quash the award dated 26.08.2003 passed therein, by holding it as illegal and arbitrary, and to direct the respondents herein to reinstate the petitioner into service with effect from 5.10.1999 with all attendant benefits like seniority, promotion etc.

2. Heard the Counsel for the petitioner, learned Standing Counsel for the respondent-Corporation and the learned Government Pleader.

3. It is the case of the petitioner that he was appointed as Conductor on 1.10.1985 in the respondent corporation and while he was discharging his duties, on 24.5.1999, he approached the 1st respondent requesting him to grant leave for ten days as he has to shift his family to Khammam district from Cuddapah. As the petitioner fell sick, he sent a telegram to the 1st respondent for extension of leave. The petitioner received charge sheet on 24.6.1999 and he submitted explanation to the charge memo. The respondent-Corporation construed the absence of the petitioner as misconduct and initiated disciplinary proceedings against the petitioner, and after conducting enquiry, imposed punishment of removal from service on the petitioner on 5.10.1999.

Thereafter, the petitioner has unsuccessfully preferred an appeal, and filed I.D.No.98 of 2000 before the Industrial Tribunal-cum-Labour Court and the said I.D. was dismissed. Challenging the same, the present writ petition is filed.

4. Learned Counsel for the petitioner submitted that the punishment of removal is highly disproportionate and that the Labour Court ought to have applied proportionality theory and interfered with the punishment of removal, but the Labour Court has erroneously dismissed the I.D.

5. Learned Standing Counsel for the respondent-Corporation contended that the disciplinary authority imposed punishment of removal for the proven misconduct and the Labour Court has rightly dismissed the I.D., and therefore, the award impugned does not warrant any interference.

6. This Court having considered the submissions made by the parties and the nature of the charge leveled against the petitioner, is of the considered view that the punishment of removal imposed by the respondent-Corporation is highly disproportionate and the Labour Court ought to have examined the case of the petitioner and interfered with the punishment of removal by applying the proportionality theory and, at least, the Labour Court ought to have directed the respondent-Corporation to reinstate the petitioner into service as fresh conductor. Since the punishment of removal is shockingly disproportionate, this Court feels that ends of justice would be met if the respondent-

Corporation is directed to reinstate the petitioner into service as fresh conductor.

7. Accordingly, the Writ Petition is disposed of directing the respondent-Corporation to reinstate the petitioner into service as fresh conductor, subject to medical fitness, without continuity of service, back wages and other attendant benefits. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

Date: 18/12/2018
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