

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.30772 OF 2010

ORDER:

1. This writ petition is filed seeking to issue a writ of Mandamus declaring the action of the 2nd respondent in removing the petitioner vide proceedings dated 3.5.2002 from service and consequential order of the 1st respondent-Labour Court, Hyderabad, in I.D.No.40 of 2004 dated 4.1.2007 as illegal and arbitrary; to set aside the same and consequently, to direct the 2nd respondent to reinstate the petitioner into service with continuity of service with all attendant benefits and full back wages.

2. Heard Sri K. Venkateshwarlu, learned Counsel for the petitioner and Sri N. Vasudeva Reddy, learned Standing Counsel for the 2nd respondent-Corporation.

3. It is the case of the petitioner that he was appointed as a conductor in APSRTC in the year 1991 and while he was discharging his duties as such, the 2nd respondent issued charge sheet on 29.9.2001 alleging that he failed to account sale of the ticket blocks in the way bills from 24.7.2001 to 26.8.2001 and failed to remit the accrued ticket amount of the above said sold ticket blocks causing misappropriation of legitimate revenue of the corporation to a tune of Rs.4,000/-,

which constitutes misconduct. He submitted a detailed explanation. Being not satisfied with the same, the 2nd respondent-Corporation after conducting an enquiry, removed the petitioner from service on 3.5.2002, against which, he unsuccessfully preferred appeal and revision, and thereafter, he filed I.D.No.40 of 2004 before the 1st respondent-Labour Court. But the labour Court dismissed the same. Challenging the same, the present writ petition is filed.

4. Learned Counsel for the petitioner submitted that except the incident in question, there are no such other incidents in the entire service career of the petitioner and that during the period mentioned in the charge memo, he found some amount shortage in his cash bag at the time of counting the cash in his cash bag with sale of tickets, after his return to depot, and the same was brought to the notice of ADC on the same day and since he did not have any private cash, he could not remit the shortage amount on the same day. He further contended that the punishment of removal is very 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 2nd 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 gravity of the charge levelled against the petitioner, is of the considered view that the punishment of removal imposed by the respondent-Corporation is very 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, without back wages and other attendant benefits. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

Dated: 3rd October, 2018.
Nn.

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

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03/10/2018

Nn.