

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P. No.33783 of 2011ORDER:

This writ petition is filed seeking a writ of certiorari to call for the records relating to and connected with the orders passed in I.D.No. 197/ 2009 dated 14.02.2011 passed by the Industrial Tribunal and quash or set aside the same, holding it as arbitrary and illegal.

2. Heard Sri A.Rama Rao, the Standing Counsel for the petitioner-Corporation and Sri S.D.Goud, the counsel for the respondent-workman.

3. It has been contended by the petitioner-Corporation that the respondent-workman was initially engaged as a Conductor during the year 1990 and had absented himself unauthorisedly for more than eight months. The said conduct of the respondent-workman was construed as a misconduct, and the disciplinary authority had initiated disciplinary proceedings and after conducting detailed enquiry, had imposed a punishment of removal from service for the proven misconduct in the enquiry. Thereafter, the respondent-workman had unsuccessfully preferred an appeal, and thereafter, challenged the orders of removal by filing I.D.No. 197/ 2009 under Section 2(a)(2) of the Industrial Disputes Act. The Industrial Tribunal, vide orders dated 14.02.2011, without appreciating the contentions raised by the petitioner-Corporation, had allowed the I.D. and set aside the orders of removal and directed the petitioner-Corporation to reinstate the respondent-workman into service with continuity of service and other attendant benefits, however, without back wages. Challenging the same, the present writ petition is filed.

4. The counsel for the petitioner-Corporation submits that the Industrial Tribunal ought not to have interfered with the orders passed by the disciplinary authority and ought not to have set aside the orders of removal and contends that appropriate orders be passed by setting aside the orders passed by the Industrial Tribunal in I.D.No. 197/ 2009, dated 14.02.2011.

5. The counsel appearing for the respondent-workman contends that the Industrial Tribunal has rightly passed orders in his favour and the Industrial Tribunal has modified the punishment of removal to that of deferment of one annual increment with cumulative effect, after reinstatement of the respondent. He further contends that the Industrial Tribunal had interfered with the punishment of removal by applying the proportionality theory and no grave irregularity or illegality has been pointed out by the petitioner-Corporation in the orders passed by the Industrial Tribunal, and the absence of the same, this Court should not normally interfere with the orders passed by the Industrial Tribunal, and contends that there are no merits in the writ petition and the same is liable to be dismissed.

6. This Court, having considered the submissions made by the parties, is of the considered view that the Industrial Tribunal has rightly passed orders in favour of the respondent-workman by setting aside the orders of removal, directing that the respondent-workman be reinstated into service with continuity of service and attendant benefits, however, without back wages, and the Industrial Tribunal further directed that one annual increment of the respondent be withheld with cumulative effect after his reinstatement. The Industrial Tribunal had considered the case of the respondent-workman by applying the proportionality theory and had also given cogent reasons in the orders passed in the award, and the

petitioner-Corporation has already reinstated the respondent-workman into service. Therefore, this Court is of the considered view that the Industrial Tribunal has rightly passed orders in favour of the respondent-workman and no grave irregularity or illegality could be pointed out by the petitioner-Corporation in the orders passed by the Industrial Tribunal, and in the absence of the same, this Court cannot interfere with the orders passed by the Industrial Tribunal.

7. Accordingly, the writ petition is dismissed, as devoid of merits. There shall be no order as to costs. Miscellaneous petitions pending, if any, shall stand closed.

Date: 31.12.2018
DMG



ABHINAND KUMAR SHAVILI, J