

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 28196 of 2011

ORDER:

1. This writ petition is filed by the petitioner seeking to issue a writ of Certiorari calling for the records relating to and connected with I.D.No.64 of 2009 on the file of the Labour Court-I, Hyderabad, and to quash the award dated 23.10.2010 passed therein, and consequently, to direct the 1st respondent to reinstate the petitioner into service with full back wages, continuity of service and all other attendant benefits.

2. Heard Sri G. Vidya Sagar, learned Counsel for the petitioner and the learned Standing Counsel for 1st respondent.

3. It has been contended by the petitioner that he was appointed as office boy in the year 1992 in the respondent-Corporation and subsequently, his services were converted as conductor in the year 1993, and since then, he has been discharging his duty without any complaint. While he was conducting a bus on 7.10.2008 from Khammam to Suryapet, the checking officials of the 1st respondent-corporation conducted a check and alleged that the petitioner had indulged in cash and ticket irregularities, and that the 1st respondent-Corporation construed the same as misconduct and initiated disciplinary proceedings, and after conducting regular enquiry, removed the petitioner from service vide order dated 6.3.2009.

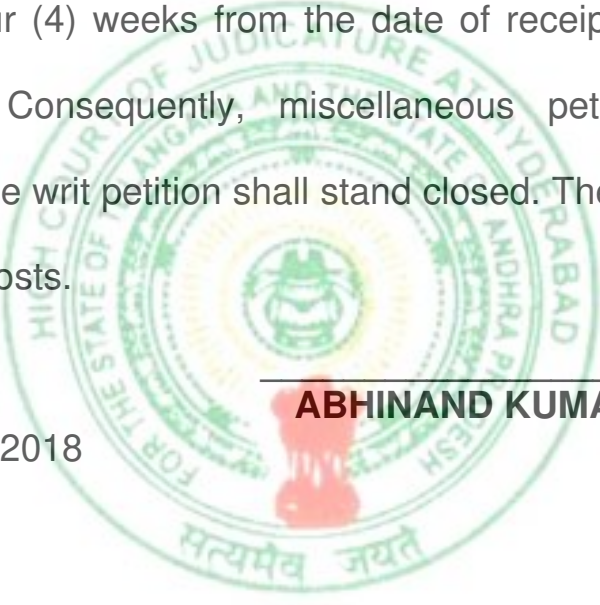
It has been further contended that the appeal and review preferred by the petitioner against the removal order were rejected, and hence, he filed I.D.No.64 of 2009 before the Labour Court, under Section 2-A(2) of the Industrial Disputes Act and the Labour Court vide order dated 23.10.2010 dismissed the I.D. holding that the petitioner is not entitled for any relief. Questioning the same, the present writ petition is filed.

4. Learned Standing Counsel appearing on behalf of the 1st respondent-Corporation contended that the disciplinary authority had rightly imposed the punishment of removal for the proven misconduct in the enquiry and the same was confirmed by the Labour Court and, therefore, no interference is called for by this Court.

5. This Court, having considered the submissions made by the parties and the material on record, is of the considered view that the Labour Court had not considered the case of the petitioner properly and simply relied upon the findings of the enquiry officer and held that the charges were proved. The Labour Court ought to have considered the case of the petitioner by applying the principle of Wednesbury i.e., proportionality theory and interfered with the punishment of removal. This Court finds that the punishment of removal is disproportionate to the proven misconduct. Therefore, ends of

justice would be met, if the writ petition is disposed of with a direction to the 1st respondent-Corporation to reinstate the petitioner afresh without any monetary benefits and continuity of service.

6. Accordingly, the Writ Petition is disposed of, directing the 1st respondent-Corporation to reinstate the petitioner as fresh entrant without any monetary benefits and continuity of service, subject to suitability and eligibility of the petitioner, within a period of four (4) weeks from the date of receipt of a copy of this order. Consequently, miscellaneous petitions, if any pending in the writ petition shall stand closed. There shall be no order as to costs.



ABHINAND KUMAR SHAVILI, J

Dated 14.11.2018
Nn

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 28196 of 2011



14.11.2018

Nn