

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 31201 OF 2010

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.43 of 2009 on the file of the Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad, and to quash the award dated 24.08.2009 passed therein, by holding it as illegal and arbitrary, and to direct the respondent-corporation to reinstate the petitioner into service along with continuity of service, attendant benefits and back wages.

2. Heard Sri V.Narsimha Goud, the Counsel for the petitioner and the learned Standing Counsel for the respondent-Corporation.

3. It is the case of the petitioner that he was appointed as conductor on 02.04.1986 and his services were regularized with effect from 1.9.1986, while he was discharging his duties on 16.08.2006, the checking officials of the respondent-Corporation conducted check and alleged that he indulged in ticket irregularities. The respondent-Corporation, construing the said act as misconduct, initiated disciplinary proceedings against the petitioner, and after conducting enquiry, imposed punishment of removal from service on the petitioner on 8.2.2007. Aggrieved by the same, the petitioner filed I.D.No.95 of 2007 before the Labour Court-I, Hyderabad. The said dispute was transferred to the 2nd respondent by the Government of Andhra Pradesh along with other dispute due to pendency of more cases. Hence, the above dispute was renumbered as I.D.No.43 of 2009 before the 2nd respondent. But the Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad, dismissed the I.D. Challenging the same, the present writ petition is filed.

4. Learned Counsel for the petitioner submitted that the punishment of removal is very disproportionate and that the Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad, ought to have applied proportionality theory and interfered with the punishment of removal, but the Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad, 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 Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad, 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 charges leveled against the petitioner, is of the considered view that the punishment of removal imposed by the respondent-Corporation is very disproportionate and the Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad, 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 Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad, 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.

ABHINAND KUMAR SHAVILI, J

20th November, 2018.

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