

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 7603 of 2008

ORDER:

This writ petition is filed seeking to issue a writ of Mandamus declaring the award passed on 23.10.2007 by the Industrial Tribunal-cum-Labour Court, Hyderabad in I.D.No.82 of 2005, as illegal and arbitrary, and consequently, to set aside the same.

2. Heard learned Standing Counsel for the petitioner and learned Counsel for the respondent-workman.

3. It is the case of the petitioner that the respondent-workman was appointed as casual labour during the year 1977-1978 in the erstwhile APSEB and thereafter, he was appointed as helper vide order dated 25.7.1989, and during the course of verification, it had come to the notice of the petitioner that the respondent-workman had secured employment by impersonating one Quddus. The said act of the respondent-workman was construed as misconduct by the petitioner. Further, a criminal complaint was also lodged against the respondent-workman. The petitioner issued a charge memo, for which, the respondent-workman submitted his explanation. Being not satisfied with the same, enquiry officer was appointed. The enquiry officer submitted his report and thereafter, a show cause notice was issued to the respondent-workman on 25.1.1995 proposing to dismiss him from service. Challenging the same, the respondent-workman filed W.P.No.562 of 1995 and this Court vide order dated 24.03.1995 set

aside the said show cause notice and remanded the matter to the disciplinary authority to conduct a fresh enquiry. Pursuant thereto, the petitioner has issued a revised charge sheet, and after conducting regular departmental enquiry, they removed the respondent-workman from service on 11.4.2005. Challenging the same, the respondent-workman preferred an industrial dispute under Section 2-A (2) of the Industrial Disputes Act by filing I.D.No.82 of 2005 before the Labour Court. The Labour Court passed award on 23.10.2007 in favour of the respondent-workman by setting aside the order of removal dated 11.4.2005 and directing that the respondent-workman be reinstated into service with continuity of service and with 50% back wages. Challenging the said award, the petitioner filed this writ petition. On 17.04.2008 while admitting this writ petition, this Court was pleased to grant interim stay as prayed for. The petitioner complied with the award passed by the Labour Court by reinstating the respondent-workman into service.

4. The learned Counsel for the respondent-workman contended that the Labour Court had rightly passed the award in favour of the respondent-workman after considering the entire case and the Labour Court has exercised its powers under Section 11-A of the Industrial Disputes Act, and therefore, the award impugned does not warrant any interference.

5. This Court has considered the rival submissions made by the parties and perused the material available on record. Since the

respondent-workman was reinstated into service, the only issue that remains to be considered in this writ petition is whether the Labour Court was right in awarding 50% of the back wages or not.

6. The Labour Court while passing the award in favour of the workman on 23.10.2007 ought to have taken into account that in the enquiry the charge was proved. After considering the reasons recorded by the Labour Court in the award, this Court is of the view that the Labour Court should not have granted 50% back wages to the petitioner. In the circumstances, this Court feels that ends of justice would be met if only 25% of back wages is awarded to the respondent-workman.

7. Accordingly, 50% back wages awarded by the Labour Court in the award in I.D.No.82 of 2005 dated 23.10.2007 is modified to that of 25% back wages. Rest of the award shall remain. It is needless to observe that the petitioner shall carry out the exercise of fixing the pay of the respondent - workman by duly taking 25% of back wages into account, within a period of eight weeks from the date of receipt of a copy of this order.

8. With the above modification, the Writ Petition is disposed of. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

10th October, 2018
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HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI



Writ Petition No. 7603 of 2011
(disposed of)

10th October, 2018

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