

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.20893 of 2005

ORDER:

This Writ Petition is filed seeking to issue a writ of Certiorari calling for the records relating to I.D.No.93 of 2001, dated 07.07.2003, passed by the Industrial Tribunal Labour Court, Warangal, and set aside the same by holding it as arbitrary and illegal and sought consequential direction of reinstatement of petitioner with continuity of service, attendant benefits and back wages.

2. Heard Sri G.Ravi Mohan, learned counsel for the petitioner and Sri B.Mayur Reddy, learned Standing Counsel for the A.P.S.R.T.C.

3. It has been contended by the petitioner that he was appointed as Conductor in the respondent-Corporation and while he was discharging duties as such, in April, 1999, the checking officials of the respondent-Corporation has conducted a check and alleged that he indulged in cash and 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 27.08.1999. Aggrieved by the same, the petitioner unsuccessfully preferred an appeal and later filed I.D.No.93 of 2001 under Section 2-A (2) of the Industrial Disputes Act. The Labour Court, vide order, dated 07.07.2003, dismissed the said I.D. 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 of the petitioner and that the punishment of removal is very disproportionate and that the appellate authority as well as 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 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 order impugned does not warrant any interference.

6. This Court having considered the submissions made by the parties and the gravity of the charges levelled against the petitioner, is of the considered view that the punishment of removal imposed by the respondent-Corporation is very disproportionate and the appellate authority 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 i.e., 'wednesbury principle', and ought to have directed the respondent-Corporation to reinstate the petitioner into service as a fresh Conductor. Therefore, ends of justice would be met if the respondent-Corporation is directed to reinstate the petitioner into service as a fresh Conductor as punishment of removal is shockingly disproportionate to the charge levelled against the petitioner.

7. Accordingly, the Writ Petition is disposed of directing the respondent-Corporation to reinstate the petitioner into service subject to medical fitness, as a fresh Conductor, without continuity of service, without back wages and other attendant benefits.

Miscellaneous petitions pending, if any, shall stand closed.
There shall be no order as to costs.

ABHINAND KUMAR SHAVILI, J

SEPTEMBER 14, 2018
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Date:14.09.2018

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