

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.12039 of 2007

ORDER

This writ petition is filed seeking to issue a writ of Certiorari calling for the records relating to and connected with the Award dated 23.2.2006 passed in I.D.No.94 of 2004 by the Labour Court-III, Hyderabad, and to quash or set aside the same by holding it as arbitrary and illegal only to the extent of withholding of two increments with cumulative effect and not granting back-wages.

Heard Sri P.Govinda Rajulu, learned counsel for petitioner and Smt B.G.Uma Devi, learned Standing Counsel appearing for the respondent-Corporation.

It is the case of the petitioner that he was appointed as Conductor in the respondent-Corporation in 1990 and he was working as such. While so, the checking officials exercised a check on 8.8.2002 and found that the petitioner was indulged in cash and ticket irregularities. This incident was construed as misconduct, the respondent-Corporation had issued charge sheet on 21.8.2002 and appointed an enquiry officer. Based on the report of the enquiry officer, the respondent-Corporation issued show cause notice to the petitioner on 10.3.2003 and

thereafter, removed him from service *vide* order dated 26.03.2003. Challenging the same, the petitioner preferred I.D.No.94 of 2004 under Section 2-A(2) of Industrial Disputes Act, 1947 (for short 'the Act') before the Labour Court-III, Hyderabad. The Labour Court *vide* order dated 23.03.1996, while reinstating the petitioner with continuity of service, denied back wages and attendant benefits, however, imposed the punishment of withholding of two increments with cumulative effect. Challenging the same, the petitioner filed the present writ petition only to the extent of withholding of two annual increments with cumulative effect.

Learned counsel appearing for the petitioner contends that while reinstating the petitioner into service, the Labour Court ought not to have imposed the punishment of withholding of two increments with cumulative effect and he is entitled for back-wages.

Learned Standing Counsel appearing for the respondent Corporation contends that since the Labour Court had modified the major punishment of removal to that of withholding of two increments, it should be understood that another major penalty of withholding of two increments with cumulative effect has been imposed by the Labour Court and

there is no illegality or irregularity in the Award passed by the Labour Court.

Having considered the rival contentions of the learned counsel on either side, this Court is of the view that while reinstating the petitioner into service, the Labour Court ought not to have imposed the punishment of withholding of two increments with cumulative effect. Ends of justice would be met if a clarification is given by this Court that withholding of two increments should be understood as without cumulative effect. Therefore, the respondent-Corporation is directed to treat the punishment imposed by the Labour Court as that of withholding of two annual increments without cumulative effect.

In view of the above, the Writ Petition is allowed to the extent of withholding of two annual increments without cumulative effect for the purpose of notional benefits and without any monetary benefits. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

30th October, 2018
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