

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.13810 OF 2007

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.238 of 1998 on the file of the 2nd respondent-Labour Court, Guntur; to quash the award dated 16.11.2004 passed therein to the extent of denying the continuity of service, back wages and other monetary benefits, and consequently, to direct the 1st respondent to pay the back wages with continuity of service and other monetary benefits.

2. Heard Sri S.M. Subhan, learned Counsel for the petitioner and Sri P. Durga Prasad, learned Standing Counsel for the 1st respondent-Corporation.

3. It has been submitted by the petitioner that he was appointed as a conductor in the 1st respondent-Corporation and while he was discharging his duties, the 1st respondent issued a charge memo alleging that he was absent from his duties from 1.3.1996 to 25.4.1997 and 26.4.1997 to 10.6.1997 unauthorizedly, and the said conduct was construed as misconduct. It has been further submitted that after conducting enquiry, the disciplinary authority imposed punishment of removal from service on 22.4.1998 and aggrieved by the same,

the petitioner has unsuccessfully preferred appeal and review, and thereafter, he filed I.D.No.238 of 1998 under Section 2-A(2) of the I.D. Act, and the Labour Court on 16.11.2004 was pleased to set aside the order of removal by applying proportionality theory and to direct that the petitioner be reinstated into service without back wages and without continuity of service. Aggrieved by denial of back wages and continuity of service, the petitioner filed this writ petition.

4. The learned Counsel for the petitioner has contended that owing to domestic problems and ill-health, the petitioner remained absent and the Labour Court while applying the proportionality theory ought to have granted continuity of service atleast for the purpose of terminal benefits, without any monetary benefits.

5. The learned Standing Counsel for the respondent-Corporation has contended that the Labour Court has rightly passed the orders impugned and that the Labour Court has not committed any illegality, and therefore, no interference is called for from this Court.

6. This Court having considered the rival submissions made by the parties is of the view that the Labour Court ought to have considered the case of the petitioner atleast for the purpose of granting continuity of service for the purpose of terminal

benefits, without any monetary benefits. This Court feels that ends of justice would be met if the respondent-Corporation is directed to grant continuity of service to the petitioner for the purpose of terminal benefits without any monetary benefits.

7. Accordingly, the Writ Petition is disposed of directing the 1st respondent-Corporation to grant continuity of service to the petitioner for the purpose of terminal benefits without any monetary benefits. Rest of the award of the Labour Court is confirmed. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.



ABHINAND KUMAR SHAVILI, J

Dated: 17.09.2018.
nn.

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.13810 OF 2007



17/09/2018

Nn.