

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.18378 OF 2005

ORDER:

This writ petition is filed under Article 226 of the Constitution of India, seeking to issue writ of Certiorari calling for the records connected to I.D.No.78 of 2002, dated 02.12.2004 passed by the Labour Court, Hyderabad and quash the same.

2. Heard Mr.N.Vasudeva Reddy, learned standing counsel for petitioners and Sri V.Narasimha Gowd, learned counsel for the respondent.

3. It has been contended by the learned counsel for the petitioners that the respondent was appointed as Casual Conductor during 1988 and while he was discharging his duties during December, 1993, he had indulged in cash and ticket irregularities and the said conduct of the respondent was construed as misconduct by the disciplinary authority and after initiating regular departmental enquiry and for the proven misconduct in the enquiry, the respondent was imposed punishment of removal from service, vide orders, dated 19.01.1994. The respondent was unsuccessful in the appeal. Thereafter, he preferred review before the revisional authority and the revisional authority was pleased to order reinstatement of the respondent into service and on reinstatement, the petitioner's pay will be reduced to minimum of the time scale of pay. Challenging the same, the respondent preferred I.A.No.78 of 2002 and the Labour Court, vide orders, dated 02.12.2004 was pleased to set aside the orders of the revisional authority and directed that the respondent be reinstated into service with continuity of service, attendant benefits and with 60% of back wages.

4. It has been contended by the learned counsel for the petitioners that the revisional authority has not ordered fresh appointment but only reinstatement and modified punishment of removal to that of reduction in the time scale of pay and the

Labour Court has erroneously held that the revisional authority has ordered for fresh appointment and erroneously granted the relief in favour of the respondents. The Labour Court ought not to have passed the orders by setting aside the orders of the disciplinary authority as well as revisional authority and the Labour Court ought not to have awarded 60% of back wages to the respondent.

5. Learned counsel for the respondent contended that the Labour Court had rightly passed the orders in favour of the respondent and no illegality or irregularity has been pointed out in the orders passed by the Labour Court. There are no merits and the writ petition is liable to be dismissed.

6. This Court having considered the rival contentions made by both parties, is of the considered view that the Labour Court while exercising the powers under Section 11-A of the Industrial Disputes Act, 1947 ought not to have granted 60% of back wages to the respondent as the revisional authority has ordered reinstatement of the respondent by modifying the punishment of removal. Therefore, ends of justice would be met if that portion of the order of the Labour Court where 60% of back wages awarded to the respondent is set aside and rest of the award passed by the Labour Court is confirmed.

7. With the above observation, the writ petition is disposed of. No order as to costs. Miscellaneous petitions, if any pending in this writ petition shall stand closed.

ABHINAND KUMAR SHAVILI, J

DATED:12-10-2018

Hsd