

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 2301 of 2004

ORDER:

This writ petition is filed seeking to issue a writ of Certiorari calling for the records relating to and connected with I.D.No.7 of 2001 on the file of the 1st respondent-Labour Court and to quash the award dated 19.05.2003 passed therein, by holding it as illegal and arbitrary, and to direct the respondents 2 to 4 to reinstate the petitioner into service with continuity of service and all other benefits including full back wages.

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

3. It is the case of the petitioner that he was appointed as driver in the respondent corporation on 12.02.1987. While so, he was issued with a charge sheet on 14.05.1996 on the ground that he detained the 14.00 hrs 52-D service vehicle No.AEZ 4940 at Adarshnagar on 28.04.1996 without operating 16 hrs and 20 hrs singles. The respondent-Corporation construing the said act as misconduct initiated disciplinary proceedings against him, and after conducting a regular enquiry, imposed punishment of removal from service vide orders dated 04.02.1997. Aggrieved by the same, he had unsuccessfully preferred an appeal and a review and, thereafter, filed I.D.No.7 of 2001 before the Labour Court. But the Labour Court dismissed the

I.D. vide order dated 19.05.2003. 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 career of the petitioner and that the punishment of removal is very disproportionate and that the 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 charge levelled against the petitioner, is of the considered view that the punishment of removal imposed by the respondent-Corporation is very disproportionate 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 and at least, the Labour Court ought to have directed the respondent-Corporation to reinstate the petitioner into service as fresh driver. Since the punishment of removal is shockingly disproportionate, this Court feels that ends of justice would be met if the respondent-

Corporation is directed to reinstate the petitioner into service as fresh driver.

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 driver, without continuity of service, without back wages and other attendant benefits. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

23rd November, 2018
cbs

ABHINAND KUMAR SHAVILI, J



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Writ Petition No. 2301 of 2004
(disposed of)

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