

**HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI**

**WRIT PETITION No.2336 of 2004**

**ORDER:**

This writ petition is filed seeking the following relief:

“For the reasons stated in the accompanying affidavit the petitioner herein prays that this Hon’ble Court may be pleased to issue an appropriate Writ, Order or direction, especially in the nature of a Writ of Certiorari, calling for the records relating to the impugned award dated 17-04-2003 made in I.D.No.50/2000, Labour Court-II, Hyderabad, published on 23-06-2003, setting aside the Order of removal dated 24-03-2000 and directing reinstatement of the 1<sup>st</sup> respondent into service with continuity of service, full back-wages and attendant benefits, and quash the same as being illegal, without jurisdiction and invalid, and pass such other and further orders to meet the ends of justice”.

2. Heard the learned Standing Counsel for the petitioner-Corporation and the learned Counsel for the 1<sup>st</sup> respondent-workman.

3. It has been contended by the petitioner-Corporation that the 1<sup>st</sup> respondent-workman was appointed as temporary conductor on 1-8-1975. He was confirmed in the post of Conductor on 27-6-1996 with effect from 3-4-1995. He was placed in Special Grade on 6-1-1996, with effect from 1-5-1996. He was promoted as Assistant Depot Clerk/Controller, on 21-2-1997. He was warned thrice, severely warned once, his increments deferred 8 times, he was censured 27 times and his security deposit was forfeited once. Further, he was removed from service on 11-5-1977. But, on appeal, he was reinstated into service on 8-1-1979, treating the period from the date of removal till the date of reinstatement as leave without pay. He

was again removed from service on 28-7-1986. His appeal was rejected on 14-5-87. But in terms of the award in I.D.No.830/87, he was reinstated into service as Conductor with continuity of service and attendant benefits and 50% back wages subject to result of the writ petition to be filed. The Audit Inspector of Deputy Chief Accounts Office, Hyderabad City Region, has conducted audit of BHEL depot at Bus Pass Section at Keerthi Mahal, in BHEL Township, from 10-3-98 to 13-3-98. During the audit inspection, the Audit Inspector found difference of Rs.8,51,740/- remitted less to actual sale of Bus Passes with manipulated amount from 6-6-1998 to 2-3-1999. Sri M.G.Rabbani, A.D.C., working as Assistant Depot Clerk in Bus Pass Section, has misappropriated the above said amount by replacing the original way bills with non-genuine way bills at the time of submitting bus cash to the Depot Clerk (Earnings) on 26 different dates. Based on the Audit Inspection, a preliminary enquiry was conducted to elicit the involvement of persons in the huge fraud. In the preliminary enquiry, it was revealed that the 1<sup>st</sup> respondent was one of the persons who accepted less cash while collecting bus pass cash from Sri M.G.Rabbani. Based on the audit report and the preliminary enquiry report and the evidence available on record, the 1<sup>st</sup> respondent was placed under suspension pending enquiry and a Charge Sheet dated 3-5-1999 was issued to him. The 1<sup>st</sup> respondent submitted his explanation denying the charges. A regular enquiry was conducted and issued a show cause notice of removal, dated 15.2.2000, to which the 1<sup>st</sup> respondent submitted his explanation. The Depot Manager came to a final conclusion that the charges were proved and passed an order of removal dated 24-3-2000 removing the 1<sup>st</sup> respondent from service. Without

exhausting the statutory remedies of appeal and review, available to him under APSRTC Employees (CC&A) Regulations, 1967 the 1<sup>st</sup> respondent filed an application I.D.No.50/2000 in Labour Court-II, Hyderabad, questioning the order of removal from service under Sec.2-A(2) of the Industrial Disputes Act, 1947 and the Labour Court, without properly appreciating any of the contentions raised by the corporation has passed an award dated 17-4-2003, setting aside the order of removal dated 24.03.2000 and directing reinstatement of the 1<sup>st</sup> respondent into service with full back wages, continuity of service and attendant benefits. Aggrieved thereby, the present writ petition is filed by the petitioner-Corporation.

4. Learned Counsel for the 1<sup>st</sup> respondent has contended that the Labour Court has rightly passed the award in favour of the 1<sup>st</sup> respondent and, therefore, no interference is called for.

5. This Court, having considered the submissions made by the learned Counsel for the parties, is of the considered view that the Labour Court has rightly passed the award in favour of the 1<sup>st</sup> respondent. Further, no illegality or irregularity is pointed out by the learned Standing Counsel for the petitioner-Corporation in the award passed by the Labour Court. Unless and until any illegality or irregularity is pointed out by the learned Standing Counsel for the petitioner-Corporation in the award passed by the Labour Court, this Court cannot interfere with the findings of the Labour Court. There are no merits in the writ petition and the writ petition is liable to be dismissed.

6. Accordingly, the Writ Petition is dismissed. Consequently, miscellaneous petitions, if any, pending in the writ petition shall stand closed.

No order as to costs.

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**ABHINAND KUMAR SHAVILI, J**

17<sup>th</sup> December, 2018

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