

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.15370 OF 2005

ORDER :

The petitioner is challenging the orders passed in I.D.No.170 of 1999, dated 15.2.2001 wherein, the Industrial Tribunal, instead of adjudicating the case on merits has dismissed the I.D., preferred by the petitioner on the ground that the petitioner was absent and his advocate was absent. The learned Counsel for the petitioner submits that the petitioner was challenging the orders passed by the reviewing authority wherein the reviewing authority was pleased to set aside the orders of removal, however, directed that the petitioner be appointed afresh without continuity of service, back wages and attendant benefits. Challenging the same, the petitioner had filed I.D.No.170 of 1999 and the Labour Court, instead of deciding the case on merits, has closed the case on the ground that neither the petitioner nor his advocate was present when the case was taken up for hearing on 15.2.2001. The learned Counsel for the petitioner contends that atleast the Labour Court ought to have adjudicated the case on merits and ought to have exercised its power under industrial disputes act and atleast granted continuity of service for the purpose of terminal benefits.

2. The learned Standing Counsel for the respondents contends that the case of the petitioner was examined by the reviewing authority and a lenient view was taken by modifying the punishment of removal to that of fresh

appointment. No lenient view can be shown. There are no merits and the Writ Petition is liable to be dismissed.

3. This Court, having considered the rival submissions of the parties, is of the considered view that the Labour Court ought to have adjudicated the case on merits, instead of closing I.D. preferred by the petitioner on the ground that the petitioner nor his counsel was present on 15.02.2001. At this stage, if the case is remanded back to Industrial Tribunal, it will be too harsh on the petitioner as the Writ Petition was kept pending for more than 14 years. Since it has been contended by the learned counsel for the petitioner that the allegation of un-authorised absence was alleged for imposing a major penalty of removal by the disciplinary authority and the reviewing authority was pleased to modify the punishment of removal to that of fresh appointment and since this is the lone allegation in the entire career of the petitioner, the reviewing authority should have taken a lenient view and, at least, ought to have granted continuity of service for the purpose of terminal benefits. Therefore, this Court is of the considered view that the ends of justice would be met, if the respondents are directed to extend the continuity of service only for the purpose of terminal benefits. With these observations, Writ Petition is disposed of.

4. Miscellaneous Petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

24th December, 2018