

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 20802 of 2003

ORDER:

This writ petition is filed seeking to issue a writ of certiorari calling for the record relating to and connected with I.D.No.46 of 2001 on the file of the Labour Court, Visakhapatnam, and quash the award dated 30.12.2002 passed therein holding it as illegal and arbitrary.

2. Heard Sri S.V. Ramana, learned standing counsel for APSRTC, appearing for the petitioner corporation and Sri S. Rajan, learned counsel for the 1st respondent-workman and perused the record.

3. It has been contended by the petitioner corporation that the 1st respondent was appointed as a Conductor in the corporation during February, 1988. While so, on 02.06.1998 when he was conducting a bus, a check was conducted by the checking officials and it is found that the 1st respondent had indulged in cash and ticket irregularities. The said conduct of the 1st respondent was construed as misconduct by the petitioner corporation, a charge sheet was issued to him, to which an explanation was submitted by the 1st respondent. Thereafter, a domestic enquiry was ordered and basing on the report of the enquiry officer and the material available on record, the disciplinary authority issued a show cause notice of removal to the 1st respondent, for which the 1st respondent submitted an explanation. As the explanation submitted by the 1st respondent is not convincing, the

petitioner corporation imposed the punishment of removal of the 1st respondent from service vide order dated 23.09.1998. Challenging the same, the 1st respondent preferred I.D.No.46 of 2001 on the file of the Labour Court, Visakhapatnam. The Labour Court passed an award dated 30.12.2002 directing the petitioner corporation to reinstate the 1st respondent into service with 25% of back wages and with continuity of service. It is also observed that 75% loss of salary from 23.09.1998 is sufficient punishment for the misconduct under charges 2 to 4. Aggrieved by the same, the present writ petition is filed.

4. Learned standing counsel for the petitioner corporation has contended that the Labour Court ought not to have interfered with the order of removal and exercised the powers under Section 11-A of the Industrial Disputes Act, 1947, as the Labour Court imposed the punishment of removal based on the proven misconduct of the 1st respondent in the disciplinary proceedings.

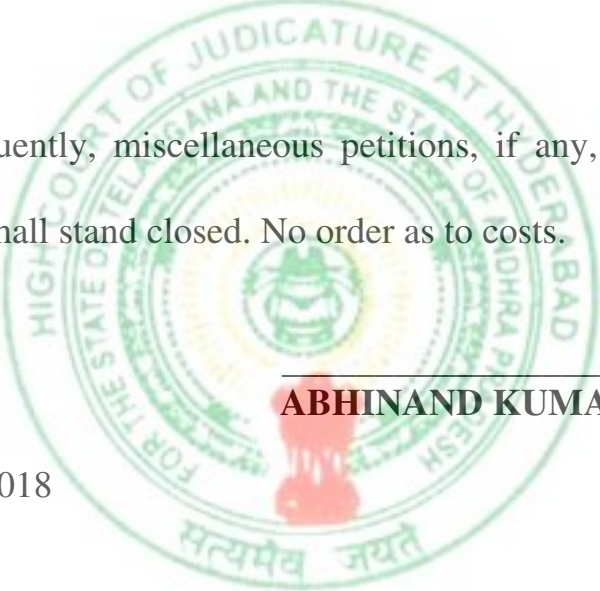
5. On the other hand, learned counsel for the 1st respondent has contended that the Labour Court had interfered with the punishment of removal on the proportionality theory i.e., wednesbury principle and it has got ample powers under Section 11-A of the Industrial Disputes Act. Therefore, no interference is called for.

6. This Court, having considered the rival submissions made by the parties, is of the considered view that the Labour Court has given a

specific finding that the punishment of removal is quite harsh and disproportionate for the misconduct committed by the 1st respondent. It is also observed that 75% loss of salary from 23.09.1998 is sufficient punishment for the misconduct under charges 2 to 4. This Court would not see any illegality or perversity in the order passed by the Labour Court. Therefore, the writ petition is liable to be dismissed.

7. Accordingly, the writ petition is dismissed. No order as to costs.

Consequently, miscellaneous petitions, if any, pending in the writ petition shall stand closed. No order as to costs.



ABHINAND KUMAR SHAVILI, J

30th August, 2018
cbs

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI



Writ Petition No. 20802 of 2003
(dismissed)

30th August, 2018

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