

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 27551 of 2005

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.367 of 2002 on the file of the 1st respondent - Labour Court and quash the award dated 23.04.2005 passed therein holding it as illegal and arbitrary.

Heard Sri P. Vinayakaswami, learned standing counsel for the petitioner corporation, and Sri G. Ravimohan, learned counsel for the 2nd respondent.

It has been contended by the petitioner corporation that the 2nd respondent was appointed as Conductor in the corporation in the year 1984. While so, basing on the report of the Traffic Inspector Grade-1 that the 2nd respondent misappropriated the revenue of the corporation while discharging his duties, the corporation issued charge sheet dated 24.09.1999, for which the 2nd respondent submitted explanation. Dissatisfied with the explanation of the 2nd respondent, a detailed enquiry was conducted and the Enquiry Officer submitted his report holding the charges leveled against the 2nd respondent proved. Basing on the same, a show cause of the notice of removal was issued to the 2nd respondent, and finally, he was removed from service vide orders dated 11.05.2000. Questioning the same, the 2nd respondent unsuccessfully preferred an appeal and a review, and thereafter, raised

an industrial dispute before 1st respondent - Labour Court in I.D.No.367 of 2002 under Section 2-A(2) of the Industrial Disputes Act, 1947. Vide orders dated 23.04.2005, the Labour Court allowed the I.D. setting aside the order of removal and directing the petitioner corporation to reinstate the 2nd respondent into service with continuity of service, but without back wages. The petitioner corporation is also directed to defer annual increment of the 2nd respondent for a period of two years with cumulative effect. Challenging the same, the corporation filed the present writ petition.

Learned standing counsel for the petitioner corporation has contended that without properly appreciating any of the contentions raised by the petitioner corporation, the Labour Court passed the award in favor of the 2nd respondent and that the Labour Court erred in exercising the discretion under Section 11-A of the Industrial Disputes Act in favor of the 2nd respondent ignoring the gravity of the charges. Therefore, the award of the Labour Court warrants interference from this Court.

On the other hand, learned counsel for the 2nd respondent has contended that the Labour Court has rightly passed the award in favor of the 2nd respondent while exercising its power under Section 11-A of the Industrial Disputes Act. Therefore, the award of the Labour Court needs no interference.

I have considered the rival submissions made by the learned counsel on either side and perused the record. I am of the considered view that the Labour Court gave specific finding that no documentary evidence was produced by the petitioner corporation to establish the charges leveled against the 2nd respondent, and that taking into consideration the fact that the 2nd respondent had remitted the misappropriated amount to the petitioner corporation during the enquiry proceedings and also the service put in by the 2nd respondent and taking a lenient view, while exercising the powers under Section 11-A of the Industrial Disputes Act, the Labour Court rightly passed the award in favor of the 2nd respondent. Further, no illegality or irregularity is pointed out by the learned standing counsel for the petitioner corporation in the impugned award. Unless and until any grave irregularity or illegality is pointed out by the learned standing counsel, this Court cannot interfere with the findings of the Labour Court. I find no merits in the writ petition and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. Consequently, miscellaneous applications, if any, pending in the writ petition shall stand closed. No order as to costs.

ABHINAND KUMAR SHAVILI, J

4th September, 2018
cbs

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI



Writ Petition No. 27551 of 2005
(dismissed)

4th September, 2018

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