

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P. No.2566 of 2004ORDER:

This writ petition is filed seeking a writ of certiorari to call for the records relating to and connected with the orders passed in I.D.No. 130/ 2002 dated 06.09.2003 passed by the Industrial Tribunal and quash or set aside the same, holding it as arbitrary and illegal.

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

3. It has been contended by the petitioner-Corporation that the respondent-workman was initially engaged as a Conductor during the year 1985 and on cash and ticketing irregularities, the disciplinary authority initiated disciplinary proceedings and after conducting detailed enquiry, had imposed a punishment of removal from service for the proven misconduct in the enquiry. Thereafter, the respondent-workman preferred an appeal, wherein the punishment of removal from service was modified to that of deferment of increment for a period of two years with effect on future increments. Thereafter, a reference of the dispute was made by the petitioner-Corporation by filing I.D.No. 130/ 2002 under Section 2(a)(2) of the Industrial Disputes Act. The Industrial Tribunal, vide orders dated 06.09.2003 disposed of the said I.D. confirming the orders passed by the appellate authority. Challenging the same, the present writ petition is filed.

4. The counsel for the petitioner-Corporation submits that the Industrial Tribunal ought not to have interfered with the orders passed by the disciplinary authority and contends that appropriate orders be passed

by setting aside the orders passed by the Industrial Tribunal in I.D.No. 130/ 2002, dated 06.09.2003.

5. The counsel appearing for the respondent-workman contends that the appellate authority has rightly passed orders in his favour and the Industrial Tribunal has confirmed the same and reinstated him into service with continuity of service and consequential benefits. He further contends that the appellate authority had interfered with the punishment of removal by applying the proportionality theory, and the Industrial Tribunal has confirmed the same, and no grave irregularity or illegality has been pointed out by the petitioner-Corporation in the orders passed by the Industrial Tribunal, and the absence of the same, this Court should not normally interfere with the orders passed by the Industrial Tribunal, and contends that there are no merits in the writ petition and the same is liable to be dismissed.

6. This Court, having considered the submissions made by the parties, is of the considered view that the Industrial Tribunal has rightly passed orders in favour of the respondent-workman, confirming the orders passed by the appellate authority, by setting aside the orders of removal, directing that the respondent-workman be reinstated into service with continuity of service and consequential benefits. The Industrial Tribunal had considered the case of the respondent-workman by applying the proportionality theory and had also given cogent reasons in the orders passed in the award, and the petitioner-Corporation has already reinstated the respondent-workman into service. Therefore, this Court is of the considered view that the Industrial Tribunal has rightly passed orders in favour of the respondent-workman and no grave irregularity or illegality could be pointed out by the petitioner-Corporation in the orders

passed by the Industrial Tribunal, and in the absence of the same, this Court cannot interfere with the orders passed by the Industrial Tribunal.

7. Accordingly, the writ petition is dismissed, as devoid of merits. There shall be no order as to costs. Miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

Date: 20.12.2018
DMG

