

HON' BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 19428 of 2005

ORDER:

The present writ petition is filed seeking *Certiorari* calling for records relating to and connected to the Award dated 24.07.2002 passed in ID No.27 of 2000 on the file of respondent No.1 and quash the same in so far as not granting continuity of service, attendant benefits and back wages holding it as illegal and arbitrary.

2. The brief facts of the case are that the petitioner herein was appointed as Driver in respondent No.2-Corporation on 11.11.1987 on daily wage basis and posted at Khammam Bus Depot. His services were regularized on 01.01.1989. While the petitioner was working at Sattupally Depot, on 08.05.1996, though he was to conduct bus for Basara at 11.30 hours, the Controller of the corporation requested him to go on Departmental Goods Transport Vehicle (DGT) to Karimnagar stating that his duty is simply to drive the vehicle as the Mechanic-Omkar and Cleaner-M.A.Hashim would take care of the loading and unloading work. As such, they reached Karimnagar and the said Mechanic and

Cleaner unloaded the material and again got loaded the material and the petitioner completed his duty on DGT on 10.05.1996. However, it was found that the petitioner did not hand over two front and two rear spring assemblies supplied to Bhadrachalam Depot. The Chief Inspector, Bhadrachalam Depot conducted a preliminary enquiry and submitted his report holding the petitioner responsible for the said pilferage. Based on the same, the petitioner was placed under suspension by order dated 24.08.1996 and charge sheet was issued against him on 24.08.1996 framing three charges, alleging that there is a pilferage of four spring assemblies worth Rs.12,000/-. Dissatisfied with the explanation of the petitioner, the corporation ordered enquiry and the Enquiry Officer after conducting a detailed enquiry found him guilty of the charges. Based on the enquiry report, respondent No.2-Corporation issued show cause notice of removal of the petitioner, by proceedings dated 08.09.1997 and later removed the petitioner from service. The petitioner unsuccessfully preferred an appeal and a review and thereafter, raised ID No.27/2000 before respondent No.1, wherein the labour court passed the impugned award dated

24.07.2002 reinstating the petitioner as a fresh driver without continuity of service, back wages and attendant benefits.

3. The grievance of the petitioner is that the driver and cleaner, who accompanied him, though found guilty, they were reinstated by the respondents-corporation. Insofar as the petitioner's case is concerned, the respondents-corporation ordered major penalty of removal on the petitioner and the labour court while appointing the petitioner as Driver afresh, ought to have granted continuity of service, back wages and attendant benefits. Challenging the same, the present writ petition is filed.

4. Heard Sri G.Ravi Mohan, learned counsel for petitioner and Sri B.Mayur Reddy, learned Standing Counsel for respondent No.2 and perused the material available on record as well as the order impugned.

5. It has been contended by the learned counsel for petitioner-workman that respondent-corporation without appreciating the material on record in proper perspective, passed the impugned order and the same is liable to be set aside by

granting continuity of service with back wages and attendant benefits.

6. The learned Standing Counsel for respondents would submit that the disciplinary authority has rightly imposed punishment of removal from service on the petitioner for the proven misconduct and that respondent No.1 by following the proportionality theory, rejected plea of the petitioner for continuity of service and back wages. There is nothing wrong in the order impugned warranting interference of this court.

7. As seen from the order impugned, it is clear that the petitioner along with other two employees of the corporation indulged in theft of certain articles of the Corporation, which is the main allegation levelled against him. However, taking into consideration the services rendered by the petitioner, the labour court ought to have let off the petitioner with minor punishment. At least ought to have granted continuity of service for the purpose of terminal benefits.

8. Having heard the rival contentions of both the counsel and considering the material on record, this court is of the view that

ends of justice would be met if the respondents are directed to grant continuity of service to the petitioner only for the purpose of terminal benefits without any monetary benefit. The rest of the Award passed by the labour court is hereby confirmed.

9. With the above observations, the writ petition is disposed of. No costs.

10. Miscellaneous Petitions, if any, pending in this writ Petition shall stand closed.

12th September, 2018
Mj/l/*

ABHINAND KUMAR SHAVILI, J

