

HON' BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P. No.12200 of 2002

ORDER:-

This writ petition is filed seeking to issue a writ of certiorari calling for the records relating to the impugned Award dated 20.03.2001 in I.D.No. 83 of 1998 passed by the Industrial Tribunal-cum-Labour Court, Warangal insofar as not granting continuity of service, back-wages and all other attendant benefits to the petitioner, and quash the same as being arbitrary and illegal and sought a consequential direction to pay back-wages, continuity of service and other attendant benefits.

Heard Sri A.Jayaprakash Rao, learned counsel for the petitioner and Sri Mayur Reddy, learned Standing Counsel for the 2nd respondent - A.P.S.R.T.C. and perused the material placed on record.

The brief facts of the case are that the petitioner was appointed as Conductor in the year 1989 and his services were regularized in 1994. While he was conducting the bus on 30.03.1997, a check was conducted and the checking team found that 31 passengers were traveling without tickets. The respondent-Corporation construed the conduct of the petitioner in not issuing tickets to 31 passengers as misconduct and issued charge sheet. After regular enquiry was conducted, the petitioner was removed from service vide

orders dated 18.10.1997. Challenging the orders of removal, the petitioner preferred I.D.No. 83 of 1998 under Section 2-A(2) of the Industrial Disputes Act before the Tribunal. The learned Tribunal, by Award dated 20.03.2001, set aside the order of removal and directed the 2nd respondent to reinstate the petitioner into service as fresh Conductor.

It is contended by the learned counsel for the petitioner that on the date of checking the bus i.e. 30.03.1997, the checking officials of the Corporation found 31 passengers, who were traveling without tickets, as “Rytu Kooli Sangam” and this fact was not disputed by the Corporation. On that day, 131 passengers were travelling in the bus, which was overcrowded, as such, it was impossible for the petitioner to issue tickets to 31 passengers among them.

Taking all the factors into consideration, the Labour Court gave a specific finding that at best the petitioner was guilty of misconduct of negligence but not guilty of misappropriating the amounts of the respondent – Corporation and also held that the penalty of removal from service is shockingly disproportionate to the charges leveled against the petitioner. On these two counts, the learned Tribunal set aside the orders of removal. Even though the Labour Court has given this finding in favour of the petitioner, it was not right in directing the petitioner to be reinstated afresh

instead of reinstating him with continuity of service and other attendant benefits at least for the purpose of pension benefits. The impugned order is bereft of any discussion in respect of the back-wages as the Labour Court has ordered fresh appointment of the petitioner as Conductor.

Therefore, this Court feels that ends of justice would be met if the Award passed by the Labour Court in I.D.No. 83 of 1988 dated 20.03.2001 is modified by giving a direction to the respondent – Corporation to reinstate the petitioner into service with continuity of service and other attendant benefits only for the purpose of pension benefits instead of fresh appointment as Conductor. However, it is made clear that the petitioner is not entitled to back-wages.

With these observations, the writ petition is disposed of. No order as to costs.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

ABHINAND KUMAR SHAVILI, J

23-07-2018

bcj