

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.10677 OF 2003

ORDER:

1. This writ petition is filed seeking to issue a writ of certiorari calling for the records relating to and connected with I.D.No.113 of 1999 on the file of the 4th respondent-Labour Court; to quash the award dated 11.1.2001 passed therein by holding it as illegal and arbitrary, and consequently, to direct respondents Nos.1 to 3 to reinstate the petitioner into service with continuity of service and back wages.

2. Heard Smt. S.A.V. Ratnam, learned Counsel for the petitioner and Sri J. Srinivasa Rao, learned Standing Counsel for respondents Nos.1 to 3.

3. It is the case of the petitioner that he was appointed as Badli filler on 1.10.1976, and after rendering more than 20 years of service, the respondents alleged that the petitioner along with others had instigated fellow workers to participate in illegal strike. On the said allegation, the disciplinary authority without conducting proper enquiry imposed punishment of removal vide order dated 29.11.1997. The petitioner challenged the removal order under Section 2(A)-2 of the Industrial Disputes Act before the Labour Court. The Labour Court vide order dated 11.1.2001 dismissed the I.D. preferred

by the petitioner. Challenging the same, the present writ petition is filed.

4. It has been contended by the learned Counsel for the petitioner that none of the contentions raised by the petitioner were appreciated and that the Labour Court ought to have interfered with the punishment of removal by applying **Wednesbury** principle and it ought to have reinstated the petitioner with continuity of service, back wages and other attendant benefits, and therefore, appropriate orders may be passed directing the respondents to reinstate the petitioner into service with all consequential benefits.

5. The learned Standing Counsel for respondents Nos.1 to 3 contended that the Labour Court has rightly dismissed the I.D. filed by the petitioner and that the disciplinary authority imposed the punishment of removal for the proven misconduct after giving every opportunity to the petitioner. He further contended that the petitioner has attained the age of superannuation during the pendency of this writ petition and therefore, the relief sought by the petitioner cannot be granted at this stage, and apart from that, no illegality or irregularity has been pointed out by the petitioner in the order passed by the Labour Court so as to set aside the order passed by the Labour Court and to direct the authorities concerned to reinstate the petitioner into service

and that there are no merits and the writ petition is liable to be dismissed.

6. This Court having considered the rival submissions made by the parties is of the view that the Labour Court ought to have applied **Wednesbury** principle viz., proportionality theory. At least, the Labour Court ought to have awarded compensation by taking into account that the petitioner has put in 20 years of service with respondents Nos.1 to 3. Ends of justice would be met if respondents Nos.1 to 3 are directed to pay a sum of Rs.2 lakhs (Rupees Two lakhs) as full and final settlement towards compensation in lieu of reinstatement.

7. Accordingly, the Writ Petition is disposed of directing respondents Nos.1 to 3 to pay a sum of Rs.2 lakhs (Rupees Two lakhs) as full and final settlement towards compensation in lieu of reinstatement. It is needless to say that if the petitioner is entitled for any other benefits in accordance with the rules, respondents Nos.1 to 3 shall pay the said benefits to the petitioner. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

Dated: 20.11.2018.

Nn.

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