

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.25655 OF 2007

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.166 of 2003 on the file of the 1st respondent- Labour Court, Anantapur, and to quash the award dated 6.12.2006 passed therein, and consequently, to direct the 2nd respondent herein to reinstate the petitioner into service with continuity of service and attendant benefits.

2. Heard Sri S.M. Subhan, learned Counsel for the petitioner and Smt. W.V.S. Rajeswari, learned Standing Counsel for the respondent-Corporation.

3. It is the case of the petitioner that he was appointed as a driver in the respondent-Corporation and while he was driving the bus, the bus met with an accident and in that regard, the 2nd respondent issued a show cause notice on 6.11.1999 proposing to delete his name from the selected list of drivers, for which he submitted his explanation. Being not satisfied with the same, the respondent-Corporation removed the name of the petitioner from the selected list vide order dated 17.12.1999 and against the said order, the petitioner preferred appeal. But the same was rejected. Hence, the petitioner filed I.D.No.166

of 2003 on the file of the Labour Court. But the Labour Court dismissed the I.D. Challenging the same, the present writ petition is filed.

4. Learned Counsel for the petitioner contended that the Labour Court failed to exercise its powers under Section 11-A of the Industrial Disputes Act and that the Labour Court failed to see that the petitioner was acquitted in criminal case filed against the petitioner in respect of the accident in question and that removal of the name of the petitioner from the list of drivers is very illegal and arbitrary.

5. Learned Standing Counsel for the respondent-Corporation contended that the disciplinary authority rightly passed the order dated 17.12.1999 and the Labour Court has also rightly dismissed the I.D. and therefore, the award impugned does not warrant any interference.

6. This Court having considered the submissions made by the parties and the nature of the allegations levelled against the petitioner, is of the considered view that the removal of the petitioner's name from the approved list of drivers is very disproportionate and the Labour Court ought to have examined the case of the petitioner and interfered with the said punishment by applying the proportionality theory and at least, the Labour Court ought to have directed the respondent-

Corporation to reinstate the petitioner into service as fresh driver. This Court feels that ends of justice would be met if the respondent-Corporation is directed to reinstate the petitioner into service as fresh driver.

7. Accordingly, the Writ Petition is disposed of directing the respondent-Corporation to reinstate the petitioner into service as fresh entrant, subject to medical fitness, without continuity of service, without back wages and other attendant benefits. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.



JUSTICE ABHINAND KUMAR SHAVILI

Dated:17th September, 2018.
Nn.

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17/09/2018

Nn.