

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.16559 of 2003

ORDER:

This writ petition is filed seeking to issue a writ of Certiorari calling for the records connected with I.D.No.338 of 2000 on the file of the Industrial Tribunal-cum-Labour Court, Anantapur and quash the award dated 25.7.2002 insofar as reducing the petitioner's pay to three annual increments with cumulative effect and denying continuity of service, backwages and attendant benefits as illegal and arbitrary. A consequential direction is also sought to grant continuity of service, attendant benefits, back wages and three annual grade increments to the petitioner.

Heard Sri G.Ravi Mohan, learned counsel for the petitioner and Sri A.Rama Rao, learned standing counsel for the respondents.

It has been contended by the petitioner that he was appointed in the year 1996 and while he was discharging his duties in July, 1999, he fell sick and remained absent. The said conduct of the petitioner was construed as misconduct and disciplinary authority had initiated disciplinary proceedings and after conducting regular departmental enquiry, the disciplinary authority had imposed a major punishment of removal from service on 1.12.1999. The appeal and review preferred by the petitioner were also rejected. Aggrieved by the same, the petitioner had filed I.D.No.338 of 2000 before the 1st respondent-Industrial Tribunal-cum-

Labour Court, Anantapur. The 1st respondent Labour court vide orders dated 25.7.2002 passed the award in favour of the petitioner by setting aside the order of removal and directed to issue fresh appointment to the petitioner by reducing his pay to three annual increments with cumulative effect. Challenging the same, the present writ petition is filed.

Learned counsel appearing for the petitioner had contended that the 1st respondent Labour Court ought to have exercised its power under Section 11-A of the Industrial Disputes Act and granted full relief to the petitioner instead of modifying the punishment of removal to that of reducing the pay to three annual increments with cumulative effect as arbitrary and illegal and the Labour Court ought to have at least granted continuity of service for the purpose of terminal benefits.

Learned standing counsel for the respondent corporation had contended the 1st respondent Labour Court has rightly passed orders and no illegality or irregularity has been pointed out by the petitioner so as to interfere with the orders passed by the Labour Court.

This Court having considered the submissions made by both the parties is of the considered view that the 1st respondent Labour Court ought to have applied the proportionality theory in the case of the petitioner and granted continuity of service for the purpose of terminal benefits without any monetary benefits.

Accordingly, the Writ Petition is disposed of directing the respondent Corporation to extend continuity of service to the petitioner only for the purpose of terminal benefits without any

monetary benefits. The rest of the award is confirmed. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVIL, J

Date: 03/10/2018
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