

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.6411 OF 2003

ORDER

This writ petition is filed seeking to issue a Writ of Certiorari calling for the records relating to and connected with the Award dated 18.11.2002 passed in I.D.No.5 of 2000, by the Industrial Tribunal-cum-Labour Court, Anantapur, and quash or set aside the same by holding it as arbitrary and illegal and consequently to direct the 2nd respondent to reinstate the petitioner into service with continuity of service and attendant benefits.

It is the case of the petitioner that he was appointed as a Conductor on 20-11-1974 in the 2nd respondent-Corporation and while he was working as a Booking Clerk at Kurnool, he had issued same number tickets to two passengers and when the passengers complained that same tickets were issued to them, the respondent-Corporation initiated disciplinary proceedings against the petitioner alleging that he had issued same set of tickets to two passengers and after conducting regular departmental enquiry, and for the proven misconduct, removed him from service *vide* proceedings dated 02.08.1999. Thereafter, the petitioner has preferred an appeal and the same was rejected by the appellate authority without

assigning any reasons. Hence, he raised I.D.No.5 of 2000 before the Labour Court, Anantapur. The Labour Court, without appreciating any contentions raised by the petitioner, passed Nil Award. Challenging the same, the present writ petition is filed.

Learned counsel appearing for the petitioner submits that while the petitioner was discharging his duties as Booking Clerk on 19-01-1999, the computer was not properly working, consequent upon which, two tickets have been generated by the computer and without noticing the same, the petitioner had issued two tickets with the same number and the passengers, after boarding the bus, have complained. The said conduct of the petitioner was construed as a misconduct by the respondent-Corporation. In fact, the petitioner had not committed any fraud, because of jumping of the tickets by the computer, the same tickets have been issued to two passengers. The said fact was specifically pleaded before the enquiry officer. Though the enquiry officer had elaborated the same in his enquiry, however, held that the charge leveled against the petitioner was proved.

Learned Standing Counsel appearing for the respondent-Corporation contends that with *malafide* intention the petitioner has issued same tickets to two passengers and

only after one of them complained, it has come to the notice of the respondent-Corporation and that if the computer was not properly working, the petitioner ought to have reported about the same, but he did not do as such, and therefore, enquiry officer has rightly held that the charge levelled against the petitioner was proved, based on which, the disciplinary authority has imposed the punishment of removal from service, which was confirmed by the appellate authority and the Labour Court has rightly passed the Nil Award and no interference is called for.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that when it is the specific plea of the petitioner that there was jumping of tickets by the computer, such plea was not taken into consideration by the enquiry officer, the disciplinary authority and the appellate authority. The Labour Court ought to have considered the issue of jumping of tickets and at least should have interfered with the punishment of removal on the proportionality theory and has come to the rescue of the petitioner.

When the matter is taken up for hearing, it is reported by the learned Standing Counsel appearing for the respondent-Corporation that the petitioner had crossed the

age of superannuation in the year 2005 and hence, the question of reinstating the petitioner at this length of time, does not arise.

Having regard to the facts and circumstances of the case, ends of justice would be met if the respondent-Corporation is directed to pay the terminal benefits to the petitioner from the date of initial appointment i.e., 20-11-1974 till the date of retirement i.e., 2005, without any monetary benefits.

Accordingly, the Writ Petition is disposed of directing the respondent-Corporation to pay the terminal benefits to the petitioner by duly taking into consideration service rendered by him from i.e., 20-11-1974 till the date of retirement i.e., 2005. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

27th August, 2018
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