

HON' BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITON No. 21389 of 2002

ORDER:

The writ petition is filed seeking *Certiorari* calling for records in ID No.120/ 1999 on the file of respondent No.2 and quash the Award dated 18.12.2001 holding it as illegal, arbitrary and unjust.

2. The brief facts of the case are that on 01.08.1996 respondent No.1 was appointed as Conductor in the petitioner-Corporation. While so, a charge sheet was issued to respondent No.1 for his unauthorized absence from 21.02.1998 onwards. The Chief Inspector, Jangaon, submitted a report against respondent No.1-workman. Basing on the same, a charge sheet dated 06.04.1998 was issued to respondent No.1 framing two charges for violation of APSRTC Employees' (Conduct) Regulations, 1963, for which he submitted his explanation dated 18.05.1998. Thereafter, an Enquiry was conducted and the Enquiry Officer submitted his report dated 23.10.1998 holding that the charges leveled against respondent No.1 were proved. Considering the evidence on record together with the report of the Enquiry Officer, the disciplinary authority, issued show cause notice dated 04.01.1999, calling upon him to show cause as to why he should not be removed from service for which, he submitted his explanation dated 02.02.1999. However, the petitioner corporation passed final proceedings dated 22.02.1999 removing respondent No.1 from service. Challenging the same, respondent No.1-workman raised ID No.120/ 1999 under Section 2-A(2) of the Industrial Disputes Act, 1947, before respondent No.2. After hearing both sides, the tribunal passed the

impugned Award dated 18.12.2001 by setting aside the order of removal dated 22.02.1999. Challenging the same the present writ petition is filed by petitioner-corporation.

3. Heard Sri B.Mayur Reddy, learned Standing Counsel for the petitioner-corporation and Sri P.Govindarajulu, learned counsel for respondent No.1. Perused the material on record.

4. The learned Standing Counsel appearing for petitioner-Corporation contended that the tribunal did not consider the fact that the corporation passed the order of removal against the petitioner for the proven misconduct and erred in setting aside the findings of the Enquiry Officer on the charges framed against respondent No.1. Therefore, the tribunal arbitrarily and illegally passed the impugned order and the same is liable to be set aside.

5. On the other hand, learned counsel for respondent No.1-workman contended that the impugned order passed by the tribunal is justified in reinstating respondent No.1 with all benefits. Therefore, the impugned order does not suffer with any illegality or irregularity warranting interference of the court.

6. The petitioner-corporation issued charge sheet for the unauthorized absence of respondent No.1 from 21.02.1998 to 22.09.1999. In the counter filed by petitioner-Corporation before the tribunal, it is stated that respondent No.1 has sent Ex.W1-medical certificate dated 04.05.1998 by registered post to the petitioner-corporation. Respondent No.1 also clearly stated that he sent medical certificates from time to time for his absence, but the said fact was suppressed by the petitioner-corporation. The tribunal considered the aspect that due to ill-health

respondent No.1 could not attend duty for which period he submitted medical certificates from time to time and the same does not amount to unauthorized absence. The said factum was supported by documentary evidence of medical certificate issued by the doctor. Hence, this court is of the considered view that the tribunal has rightly passed the impugned order and is justified in reinstating respondent No.1 as Conductor with continuity of service full back wages and attendant benefits.

7. There are no merits in the writ petition and the same is liable to be dismissed.

8. Accordingly, the writ petition is dismissed. No costs.

9. Miscellaneous Petitions, if any, pending in this writ Petition shall stand closed.

5th September, 2018
MjI/*

ABHINAND KUMAR SHAVILI, J

