

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.31175 OF 2011

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.81 of 2009 on the file of the 2nd respondent-Labour Court, Ananthapur, and to quash the award dated 27.7.2011 passed therein.

2. Heard Sri K. Murali Krishna, learned Counsel for the petitioner and Sri A. Rama Rao, learned Standing Counsel for the respondent-Corporation.

3. It is the case of the petitioner that he was appointed as driver in the respondent-Corporation in the year 1998 and while he was discharging his duties on 25.11.2007, he caused an accident. The respondent-Corporation construing the said accident as misconduct of the petitioner, initiated disciplinary proceedings against him, and after conducting enquiry, imposed punishment of removal from service on the petitioner vide proceedings dated 27.6.2008. Aggrieved by the same, the petitioner filed I.D.No.81 of 2009 before 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 submitted that except the incident in question, there are no such other incidents in the entire service career of the petitioner and that the punishment of removal is very disproportionate and that the Labour Court ought to have applied proportionality theory and interfered with the punishment of removal, but the Labour Court has erroneously dismissed the I.D.

5. Learned Standing Counsel for the respondent-Corporation contended that the disciplinary authority imposed punishment of removal for the proven misconduct and the Labour Court has 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 material available on record, is of the considered view that the punishment of removal imposed by the respondent-Corporation is very disproportionate and the Labour Court ought to have examined the case of the petitioner and interfered with the punishment of removal 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 entrant. Since the punishment of removal is shockingly disproportionate, 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 driver, 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:25th October, 2018.
Nn.



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25/10/2018

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