

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.12621 OF 2009

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 04.03.2009 passed in I.D.No.37 of 2008 by the Industrial Tribunal-cum-Labour Court, Warangal, and to quash or set aside the same by holding it as arbitrary and illegal.

Heard Sri P.Govinda Rajulu, learned counsel appearing for the petitioner and Sri B.Mayur Reddy, learned Standing Counsel appearing for the respondent-Corporation.

It is the case of the petitioner that initially, he was appointed as Conductor in the respondent-Corporation on 28.10.1978 and his services were regularized. While so, on 09.09.1989, when the petitioner refused to operate the 5th trip, the respondent-Corporation construed the said incident as misconduct, initiated disciplinary proceedings against the petitioner and after conducting detailed enquiry, for the proven misconduct, removed him from service on 08-05-1990. Aggrieved by the same, the petitioner had preferred an appeal before the Appellate Authority. The Appellate Authority had taken a lenient view and modified the punishment of removal

to that of stoppage of annual increment for a period of three years with cumulative effect. Challenging the same, the petitioner raised Industrial Dispute through Union before the Conciliation Officer, who in turn, referred the dispute to the appropriate Government under Section 10 (1) (d) of the Industrial Disputes Act, 1947 (for short 'the Act'). The Labour Court passed Award on 4.3.2009 modifying the punishment of deferment of annual grade increment for a period of three years with cumulative effect to that of deferment of annual grade increment for a period of two years with cumulative effect and the period from the date of removal to the date of reporting for duty treated as 'not on duty' for all purposes. Questioning the same, the present writ petition is filed.

Learned counsel appearing for the petitioner submits that the Labour Court ought to have exercised its power under Section 11-A of the Act, and interfered with the punishment imposed by the appellate authority.

Learned Standing Counsel appearing for the respondent-Corporation submits that the appellate authority had rightly taken a lenient view and modified the punishment to that of deferment of annual increment for three years with cumulative effect and the Labour Court further modified the punishment to that of deferment of annual increment for a

period of two years with cumulative effect and there are no merits in this writ petition and the same is liable to be dismissed.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that the appellate authority, in all fairness, had taken a lenient view and modified the punishment of removal from service to that of deferment of annual increment for a period of three years with cumulative effect. The Labour Court vide Award dated 4.3.2009 modified the punishment to that of deferment of annual increment for a period of two years with cumulative effect. The Labour Court, atleast, ought to have applied the proportionality theory, and modified the punishment to that of deferment of annual increment for a period of two years without cumulative effect.

Hence, ends of justice would be met if the punishment of deferment of annual increment for a period of two years with cumulative effect is modified to that of deferment of annual increment for a period of two years without cumulative effect, without any monetary benefits.

Accordingly, the Writ Petition is disposed of and the punishment imposed by the disciplinary authority as modified by the appellate authority and further modified by the Labour

Court is modified to that of deferment of annual increment for a period of two years without cumulative effect, and without any monetary benefits.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

17th September, 2018
rkk

