

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 25227 of 2003

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.129 of 2001 on the file of the 1st respondent-Labour Court, and to quash the Award dated 4.8.2003 passed therein, whereby the relief sought for by the petitioner has not been granted, by holding it as illegal and arbitrary, and consequently, to grant reinstatement with continuity of service, attendant benefits and back-wages.

2. Heard Sri G. Ravi Mohan, learned counsel for the petitioner and learned Standing Counsel for the 2nd respondent-Corporation.

3. Brief facts of the case are that the petitioner was appointed as driver in the respondent – Corporation in the year 1989. While he was discharging his duties, a false complaint was made against the petitioner alleging that he was in intoxication condition. On such complaint, the petitioner was placed under suspension and charge sheet was issued to him. After conducting enquiry, the disciplinary authority imposed punishment of removal from service for the proven misconduct by proceedings dated 6.08.1997 on the petitioner.

Subsequently, the petitioner unsuccessfully preferred appeal and review. Thereafter, he filed I.D.No.129 of 2001 under Section 2-A(2) of the Industrial Disputes Act and the Labour Court, by order dated 4.8.2003 dismissed the I.D. Challenging the same, the present writ petition is filed.

4. The learned Counsel for the petitioner contends that the Labour Court failed to exercise its power under Section 11-A of the Act and it ought to have at least reinstated the petitioner as a fresh entrant but the Labour Court declined to apply theory of proportionality and mechanically dismissed the I.D. preferred by the petitioner.

5. The learned Standing Counsel for the respondent-Corporation has contended that the Labour Court rightly dismissed the I.D. and that the charges leveled against the petitioner were proved in the enquiry and the disciplinary authority has rightly imposed punishment of removal from service for the proven misconduct in the enquiry.

6. This Court, having considered the rival contentions of both the parties, is of the opinion that the Labour Court ought to have exercised its power under Section 11-A of the Act by applying the theory of proportionality and at least it ought to have ordered fresh appointment of the petitioner.

7. This Court, having regard to the fact that this is the lone incident whereby the petitioner had indulged in his entire career, is of the considered view that ends of justice would be met if the 2nd respondent is directed to appoint the petitioner as fresh entrant subject to medical fitness and pass appropriate orders, within a period of four weeks from the date of receipt of a copy of this order.

8. Accordingly, the Writ Petition is disposed of directing the 2nd respondent to appoint the petitioner as fresh entrant subject to medical fitness and pass appropriate orders, within a period of four weeks from the date of receipt of a copy of this order. No order as to costs. As a sequel, Miscellaneous Petitions, if any pending, shall stand closed.



ABHINAND KUMAR SHAVILI, J

Dated: 23-10-2018

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