THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO. 17939 OF 2003

ORDER:

This Writ Petition is filed seeking a Writ of Certiorari to call for the records relating to and connected with the orders passed in M.P.No.81 of 2001 dated 7.4.2003 passed by the Labour Court and quash or set aside the same holding it as arbitrary and illegal.

2. Heard Sri A.Rama Rao, learned Standing Counsel for the petitioner Corporation and Sri A.K.Jaya Prakash Rao, learned counsel for the respondent-workman.

3. Learned Standing counsel for the petitioner-Corporation contends that the Labour Court had erroneously allowed M.P.No.81 of 2001 in favour of the respondent-workman without appreciating any of the contentions raised by the petitioner-Corporation. The respondent-workman was appointed as a Conductor during the year 1979 and he was removed from service for the alleged cash and ticket irregularities in the year 1984. The respondent-workman had filed I.D.No.194 of 1987 and the same was dismissed by the Labour Court vide orders dated 30.6.1988. Thereafter, the respondent-workman had filed Writ Petition No.992 of 1992 before this Court challenging the orders passed in I.D.No.194 of 1987 and this Court, vide orders dated 28.2.1997 was pleased to allow the said Writ Petition directing the petitioner-Corporation to reinstate the respondent-workman into service as a fresh Conductor without giving the benefit of continuity of service and without back wages. However, this Hon'ble Court was pleased to further direct that the interregnum period between the date of Award and the date of the judgment shall be counted for the purpose of payment of pensionary benefits. In pursuance of the

orders passed by this Court, the respondent-workman was reinstated into service and he retired from service during the year 2000.

Learned counsel for the petitioner-Corporation further contends that after retirement, the respondent-workman filed M.P.No.81 of 2001 seeking pensionary benefits from the date of Award i.e., 30.6.1988 till his retirement and the Labour Court had erroneously allowed the I.D. and directed to pay the employers contribution to the respondent-workman and to calculate the employees share notionally for the purpose of calculation, and at the time of paying the pension, the Commissioner was directed to deduct the employees share of contribution and contends that the Labour Court ought not to have passed such a direction, more so under Section 33 (c) (2) of Industrial Disputes Act. The Labour Court cannot adjudicate the issue on its own until and unless there is any subsisting legal right and contends that appropriate orders be passed by setting aside the orders passed in M.P.No.81 of 2001 dated 7.4.2003.

Learned counsel for the respondent-workman contends that the Labour Court had rightly passed orders in favour of the respondent-workman and a legal right has accrued in favour of the respondent-workman in pursuance to the judgment rendered in W.P.No.992 of 1992 dated 28.2.1997 and the Labour Court had merely followed the directions issued by this Court in W.P.No.992 of 1992. No illegality or irregularity has been pointed out by the petitioner seeking interference by this Court.

This Court, having considered the rival contentions of both the parties, is of the considered view that the Labour Court had rightly passed orders in favour of the respondent-workman and adjudicated the case in pursuance to the orders passed in W.P.No.992 of 1992 dated 28.2.1997 and no grave irregularity or illegality has been pointed out by the

petitioner-Corporation. In the absence of the same, this Court cannot interfere with the orders passed by the Labour Court.

In view of the above, the Writ Petition is dismissed.

Pending miscellaneous petitions, if any, shall stand dismissed. No order as to costs.

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ABHINAND KUMAR SHAVILI ,J

Date:18.12.2018

KPM