

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.13264 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 16.12.2008 passed in I.D.No.231 of 2005 by the Industrial Tribunal-cum-Labour Court, Anantapur, and to quash or set aside the same by holding it as arbitrary and illegal and consequently to direct the respondents to reinstate the petitioner into service.

Heard Sri D.Kodanda Rami Reddy, learned counsel appearing for the petitioner, and Sri A.Rama Rao, learned Standing Counsel appearing for the respondent-Corporation.

It is the case of the petitioner that he was appointed as a Conductor in the respondent-Corporation on 4.5.1996, on temporary basis and subsequently his services were regularized. While so, the officials of the respondent-Corporation exercised a check on 5.3.2005 and found that the petitioner had indulged in cash and ticket irregularities. This incident was construed as a misconduct, the respondent-Corporation initiated disciplinary proceedings and after conducting regular departmental enquiry, imposed the punishment of removal from service for the proven

misconduct *vide* proceedings dated 27.08.2005. Aggrieved by the same, the petitioner preferred an appeal and the same was dismissed on 7.10.2005. Challenging the same, the petitioner preferred I.D.No.231 of 2005 under Section 2-A of the Industrial Disputes Act, 1947 (for short 'the Act') before the Labour Court. The Labour Court, without considering the contentions raised by the petitioner, dismissed the said I.D. Hence, the present writ petition.

Learned counsel appearing for the petitioner submits that in the entire career of the petitioner, except the present charges, no other allegations were levelled against him. He further submits that the Labour Court ought to have exercised its power under Section 11-A of the Act and granted relief to the petitioner based on the proportionality theory and atleast ought to have reinstated him into service as a Conductor afresh.

Learned Standing Counsel appearing for the respondent-Corporation submits that the disciplinary authority has rightly imposed the punishment of removal for the proven misconduct only and the Labour Court had also rightly dismissed the I.D without granting any relief and therefore, no interference is called for from this Court.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that except the present charges, no other allegations were levelled against the petitioner in his entire career, the Labour Court ought to have interfered with the punishment atleast on the proportionality theory and granted relief to him. Therefore, ends of justice would be met if a direction is given to the respondents to consider the case of the petitioner afresh and reinstate him into service.

Accordingly, the Writ Petition is disposed of directing the respondent-Corporation to consider the case of the petitioner for appointment afresh with continuity of service, without back wages, subject to his medical fitness and pass appropriate orders as expeditiously as possible. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

31st August, 2018
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