

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.25364 OF 2005

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.127 of 2003 on the file of the Labour Court; to quash the award dated 31.8.2005 passed therein to the extent of treating the validity of domestic enquiry as valid.

2. Heard Sri K. Vasudeva Reddy, learned Counsel for the petitioner and Sri N. Vasudeva Reddy, learned Standing Counsel for the respondent-corporation.

3. It has been contended by the petitioner that he was initially appointed as conductor during 1987 and while he was discharging his duties during November, 2002, the checking officials of the corporation conducted check and alleged that the petitioner indulged in cash and ticket irregularities, and that the said allegation was construed as misconduct and the disciplinary authority initiated disciplinary proceedings against the petitioner. Further, it has been contended by the petitioner that after conducting enquiry, for the proven misconduct in the enquiry, the petitioner was removed from service vide order dated 18.6.2003 and thereafter, the petitioner preferred I.D.No.127 of 2003 under Section 2-A(2) of the Industrial Disputes Act. Further, it has been contended by the learned

Counsel for the petitioner that the Tribunal has considered the issue about the validity of domestic enquiry as preliminary issue and passed award dated 31.8.2005 holding that the domestic enquiry is valid, and challenging the said finding, the present writ petition is filed and this Court was pleased to grant interim stay of all further proceedings in I.D.No.127 of 2003 vide order dated 5.12.2005.

4. The learned Counsel for the petitioner contended that the Labour Court held the domestic enquiry as valid, without appreciating the contentions raised by the petitioner and that the petitioner has specifically pleaded that the statements recorded at the time of enquiry were relied upon in the enquiry, and that no statements were recorded before the petitioner during the course of enquiry, but this particular aspect was not taken into account by the Labour Court. He further contended that the order passed by the Labour Court to the extent of holding the domestic enquiry as valid is liable to be set aside and the Labour Court may be directed to hear the case on merits and reconsider its decision as far as declaring the domestic enquiry as valid.

5. The learned Standing Counsel for the respondent-Corporation contended that the Labour Court rightly passed orders and held that the domestic enquiry is valid, and at this point of time, the matter cannot be remanded to the Labour

Court and that the witnesses who gave statements before the enquiry officer may not be available to depose before the enquiry officer and it becomes difficult for the respondent-Corporation to bring home the charge levelled against the petitioner, and therefore, the writ petition is liable to be dismissed.

6. This Court having considered the rival submissions made by the parties is of the view that the petitioner is on the verge of retirement and he is having 3 to 4 years of service. If the case is remanded at this point of time, it may be difficult to effectively adjudicate the case. Taking into consideration the fact that this is the first charge in the entire career of the petitioner, this Court is of the view that ends of justice would be met if the petitioner is directed to be appointed as fresh conductor, without any back wages, without continuity of service and other attendant benefits.

7. Accordingly, the Writ Petition is disposed of directing the respondent-Corporation to appoint the petitioner as fresh conductor, without any back wages, without continuity of service and other attendant benefits. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

Dated: 19th November, 2018.
Nn.

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

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19/11/2018

Nn.