

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.22228 OF 2011

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.16 of 2007 on the file of the 3rd respondent, and to quash the award dated 22.6.2011 passed therein, and consequently, to direct the respondent-Corporation to reinstate the petitioner and to pay the wages for the removal period along with all attendant benefits.

2. Heard Sri S.M. Subhan, learned Counsel for the petitioner and Sri P. Durga Prasad, learned Standing Counsel for the respondent-Corporation.

3. It is the case of the petitioner that he was appointed as a conductor in the year 1992 in the respondent-Corporation and while he was working as such, on the allegation of ticket irregularities, he was removed from service vide proceedings dated 23.5.2006. The petitioner unsuccessfully filed appeal and review before the authorities concerned. Aggrieved by the same, he filed I.D.No.16 of 2007 before the Labour Court. But the Labour Court dismissed the I.D. Challenging the same, the present writ petition is filed.

4. Learned Counsel for the petitioner contended that the Labour Court failed to exercise its powers under Section 11-A of the Industrial Disputes Act and that the Labour Court ought to have interfered atleast with the punishment of removal as the punishment is disproportionate to the charges levelled against the petitioner.

5. Learned Standing Counsel for the respondent-Corporation contended that the disciplinary authority rightly removed the petitioner from service and the Labour Court has also rightly dismissed the I.D. and therefore, the award impugned does not warrant any interference.

6. This Court having considered the submissions made by the parties and the nature of the allegations made against the petitioner, is of the considered view that the removal of the petitioner from service is very disproportionate and the Labour Court ought to have examined the case of the petitioner and interfered with the said punishment by applying the proportionality theory and at least, the Labour Court ought to have directed the respondent-Corporation to reinstate the petitioner into service as fresh entrant. This Court feels that ends of justice would be met if the respondent-Corporation is directed to reinstate the petitioner into service as fresh entrant.

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

JUSTICE ABHINAND KUMAR SHAVILI

Dated:17th September, 2018.
Nn.



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17/09/2018

Nn.