

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.7980 of 2005

ORDER:

This Writ Petition is filed seeking a writ of Certiorari calling for the records relating to and connected with the orders passed in I.D.No.225/1999, dated 18.10.2004, and quash the said order holding it as arbitrary and illegal.

2. Heard Sri K.Venkatesh, learned counsel for the petitioner and Sri C.Prakash Reddy, learned Standing Counsel for A.P.S.R.T.C.

3. It has been contended by the petitioner that while he was discharging his duties as Driver, during December, 1990, he caused an accident, which resulted in death of a cyclist. Basing on the said allegation, a charge sheet was issued and placed him under suspension. Thereafter, the respondent-Corporation had initiated disciplinary proceedings and after conducting detailed enquiry, imposed a punishment of stoppage of two annual grade increments with cumulative effect on 03.05.1991. Aggrieved by the same, the petitioner has preferred an appeal and the same was rejected on 25.10.1991. In a criminal case in C.C.No.272 of 1990 on the file of Judicial Magistrate of First class, Sullurpet, in respect of the same charge, the petitioner was acquitted and in the light of said acquittal, he preferred a Review Petition before the Regional Manager, Nellore, which was also rejected vide order, dated 10.07.1996. Thereafter, the petitioner raised an Industrial Dispute before the Assistant Commissioner of Labour, Nellore, through Union and the conciliation proceedings having been failed, the petitioner has referred the dispute to the Labour Court under

Section 10 (1) (c) of the Industrial Dispute Act (for short, 'the Act') which was numbered as I.D.No.225 of 1999 and the Labour Court vide order, dated 18.10.2004, dismissed the I.D on the ground that the petitioner has approached the Labour Court belatedly and after respondent-Corporation has destroyed the records.

4. Learned counsel appearing for the petitioner has contended that when the appropriate Government has referred the dispute under Section 10 (1) (c) of the Act, the question of attributing delay to the petitioner does not arise and if there is any delay, it is on the part of the Government in referring the dispute to the Labour Court and for the reasons beyond his control for the delay, the petitioner cannot be held responsible. He also contends that during the pendency of this writ petition, the petitioner has retired from service.

5. Learned Standing Counsel for the respondent-Corporation contended that the disciplinary authority has imposed the punishment of stoppage of two annual grade increments with cumulative effect only on the proven misconduct and there is no illegality committed by the disciplinary authority and that the Labour Court has also rightly dismissed I.D.No.225 of 1999 on a reference made by the appropriate Government and there are no grounds to interfere with the same.

6. This Court, having considered the rival submissions made by both parties, is of the considered view that the Labour Court ought not to have dismissed I.D.No.225 of 1999 on the ground of delay and it ought to have adjudicated the case on merits. As the petitioner has retired from service, at this stage, this Court cannot

remand the matter back to the Tribunal. Hence, ends of justice would be met if the punishment of stoppage of two annual grade increments with cumulative effect is modified to that of stoppage of two annual grade increments without cumulative effect by taking the entire circumstances of the case into consideration.

7. Accordingly, the Writ Petition is disposed of modifying the punishment of stoppage of two annual grade increments with cumulative effect to that of punishment of stoppage of two annual grade increments without cumulative effect. Miscellaneous petitions pending, if any, shall stand closed. No costs.

SEPTEMBER 14, 2018
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ABHINAND KUMAR SHAVILI, J



THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI



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Date:14.09.2018

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