

HON' BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P. No. 14407 of 2004

ORDER:-

This writ petition is filed seeking to issue a writ of certiorari calling for the records relating to the Award dated 16.08.2001 in I.D.No. 221 of 1998 passed by the Industrial Tribunal-cum-Labour Court, Anantapur and quash the same to the extent of denying continuity of service, attendant benefits and back-wages by holding it as illegal and arbitrary and consequently direct the respondents to grant continuity of service, attendant benefits and back-wages.

Heard Sri G. Ravi Mohan, learned counsel for the petitioner and Sri A. Rama Rao, learned Standing Counsel for the 2nd respondent – Corporation and perused the material placed on record.

The brief facts of the case are that the petitioner was appointed as Conductor in 1978 and while he was conducting the bus in November, 1983, he was attacked with Malaria fever and back pain and had to absent himself from duty and in spite of the fact that he produced medical certificate to that effect, his absence from duty was construed by the Corporation as misconduct, and the disciplinary authority, without conducting any enquiry, removed the petitioner from service by proceedings dated 30.05.1984. Thereafter, the

petitioner unsuccessfully preferred an appeal and review, and later, filed I.D.No. 221 of 1998 invoking the provisions under Section 2-A(2) of the Industrial Disputes Act, 1947, and the Labour Court, by the impugned Award, held that removal from service without conducting enquiry, is illegal and set aside the order of removal directing that the petitioner be appointed as fresh Conductor. Challenging the same, the present writ petition is filed.

The learned counsel for the petitioner has submitted that during pendency of the writ petition, the petitioner retired from service on attaining the age of superannuation and ends of justice would be met if the award passed by the Labour Court is modified to the limited extent of granting continuity of service for the purpose of pension benefits as it failed to exercise its power under Section 11-A of the Act.

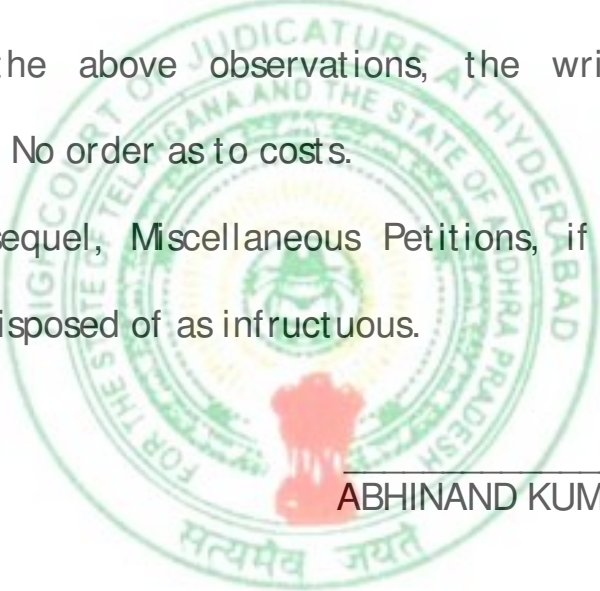
The learned Standing Counsel contends that the Labour Court has rightly passed the award ordering reinstatement of the petitioner into service as fresh conductor, as such, no further interference with the impugned award is called for and the writ petition is liable to be dismissed.

This Court, having considered the rival submissions of both the parties, is of the opinion that the Labour Court has given a finding that the orders of the removal are bad, as the petitioner was imposed with punishment of removal from

service without conducting any enquiry, and subsequently appointed him as fresh conductor. In all probability, the Labour Court, at least, ought to have granted continuity of service. Hence, this Court feels that ends of justice would be met if the writ petition is disposed of directing the respondents to grant continuity of service to the petitioner only for the purpose of pension/ terminal/retirement benefits, within a period of four weeks from the date of receipt of a copy of this order.

With the above observations, the writ petition is disposed of. No order as to costs.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.



ABHINAND KUMAR SHAVILI, J

30.08.2018

bcj