

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILU

WRIT PETITION No. 31457 of 2011

ORDER:

This writ petition is filed by the petitioner seeking to issue a writ of certiorari calling for the record relating to and connected with I.D.No.293 of 2004 on the file of the Industrial Tribunal-cum-Labour Court, Anantapur and quash the award dated 28.11.2008 passed therein. A consequential direction is also sought to reinstate the petitioner into service with all benefits.

2. Heard learned counsel for the petitioner and learned standing counsel for APSRTC appearing on behalf of the 1st respondent.

3. It has been contended by the petitioner that he was appointed as a conductor in 1992 in the 1st respondent corporation, and since then, he has been discharging his duty without any complaint. While he was conducting a bus on 2.6.2004 on the route Kalyandurg – Ralla Anantapuram, the checking officials of the 1st respondent corporation conducted a check and alleged that the petitioner had indulged in cash and ticket irregularities. The 1st respondent corporation construed the same as misconduct and initiated disciplinary proceedings, and after conducting regular enquiry, removed him from service vide order dated 10.9.2004. Aggrieved thereby, the petitioner filed I.D.No.293 of 2004 before the Industrial Tribunal-cum-Labour Court, Anantapur under Section 2-A(2) of the Industrial Disputes Act and the Labour Court vide orders

dated 28.11.2008 dismissed the I.D. holding that the petitioner is not entitled for any relief. Questioning the same, the present writ petition is filed.

4. Learned standing counsel appearing on behalf of the 1st respondent corporation had contended that the disciplinary authority had rightly imposed the punishment of removal for the proven misconduct in the enquiry and the same was confirmed by the Labour Court and, therefore, no interference is called for by this Court.

5. This Court, having considered the submissions made by the parties and perused the record, is of the considered view that the Labour Court had not considered the case of the petitioner properly and simply relied upon the findings of the enquiry officer and held that the charges were proved. The Labour Court ought to have considered the case of the petitioner by applying the principle of wednesbury i.e., proportionality principle and interfered with the punishment of removal. This Court finds that the punishment of removal is disproportionate to the proven misconduct. Therefore, ends of justice would be met, if the writ petition is disposed of with a direction to the 1st respondent corporation to reinstate the petitioner afresh without any monetary benefits and continuity of service.

6. Accordingly, the writ petition is disposed of, directing the 1st respondent corporation to reinstate the petitioner as a fresh entrant without any monetary benefits and continuity of service, subject to

suitability and eligibility of the petitioner, within a period of four (4) weeks from the date of receipt of a copy of this order.

Consequently, miscellaneous petitions if any pending in the writ petition shall stand closed. There shall be no order as to costs.

ABHINAND KUMAR SHAVIL, J

Date 12/10/2018

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