

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 17963 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.126 of 2001 on the file of the Industrial Tribunal-I, Hyderabad, and to quash the award dated 16.02.2005 passed therein, by holding it as illegal and arbitrary, and to direct the Respondents' management to reinstate the petitioner into service with continuity of service attendant benefits and back wages.

2. Heard Sri V.Narsimha Goud, the Counsel for the petitioner and Sri C.Sunil Kumar Reddy, learned Standing Counsel for the respondent-Corporation.

3. It is the case of the petitioner that he was appointed as Conductor in the year 1996 and thereafter his services were regularized in the year 1997 and while he was discharging his duties, the checking officials of the respondent-Corporation conducted a check and alleged certain cash and ticket irregularities against him and thereafter, issued a Charge Sheet on 26.04.1999 and suspended him from service. The respondent-Corporation construing the said act as misconduct, initiated disciplinary proceedings against the petitioner, and after conducting enquiry, imposed punishment of removal from service. Thereafter, the petitioner has unsuccessfully preferred an appeal and a review vide orders dated 29.08.1999 and 10.04.2000. Aggrieved by the same, the petitioner filed I.D.No.126 of 2001 before the Industrial Tribunal-I. But the Industrial Tribunal-I dismissed the I.D. Challenging the same, the present writ petition is filed.

4. Learned Counsel for the petitioner submitted that the punishment of removal is very disproportionate and that the Industrial Tribunal-I ought to have applied proportionality theory and interfered with the punishment of removal, but the Industrial Tribunal-I has erroneously dismissed the I.D.

5. Learned Standing Counsel for the respondent-Corporation contended that the disciplinary authority imposed punishment of removal for the proven misconduct and the Industrial Tribunal-I has 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 charges leveled against the petitioner, is of the considered view that the punishment of removal imposed by the respondent-Corporation is very disproportionate and the Industrial Tribunal-I ought to have examined the case of the petitioner and interfered with the punishment of removal by applying the proportionality theory and at least, the Industrial Tribunal-I ought to have directed the respondent-Corporation to reinstate the petitioner into service as fresh conductor. Since the punishment of removal is shockingly disproportionate, this Court feels that ends of justice would be met, if the respondent-Corporation is directed to reinstate the petitioner into service as fresh conductor.

7. Accordingly, the Writ Petition is disposed of directing the respondent-Corporation to reinstate the petitioner into service as fresh conductor, 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.

ABHINAND KUMAR SHAVILI, J

20th November, 2018

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