

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.22661 OF 2004

ORDER:

This writ petition is filed seeking a Writ of Mandamus to declare the Award, dated 05.07.2004, passed in I.D. No.118 of 2001 by respondent No.2 - Labour Court-III, Hyderabad, as illegal and arbitrary.

2. By virtue of the Award, dated 05.07.2004, respondent No.2 while setting aside the removal order, dated 06.07.1999, passed by the petitioner herein, reinstated respondent No.1 herein with continuity of service and back wages.

3. Heard the learned standing counsel for the petitioner, the learned Government Pleader for Labour appearing for respondent No.2 and the learned counsel for respondent No.1.

4. The learned standing counsel for the petitioner would submit that in paragraph No.6 of the Award under challenge, respondent No.2 has categorically held that respondent No.1 herein who is petitioner therein is not entitled for continuity of service and back wages, and after reinstatement in terms of the award, two increments should be deferred with cumulative effect. But, however, having held as such in the operative portion of the Award, respondent No.2 has held that the petitioner is entitled for continuity of service with back wages contrary to the earlier observation made by respondent No.2, and

contended that respondent No.2 ought not to have granted back wages. Learned counsel appearing for respondent No.1 would contend that what has been set out in the final paragraph of the Award only has to be taken into consideration, and respondent No.2 has rightly held that respondent No.1 is entitled for continuity of service and back wages, and that there are no merits in the writ petition and the same is liable to be dismissed.

5. Having considered the above submissions made on either side, this Court is of the considered view that respondent No.2 – Labour Court - III, Hyderabad, erred in granting back wages, when it has specifically observed in earlier paragraph of its Award that the petitioner therein, who is respondent No.1 herein, is not entitled for back wages. In view of the same, the award of Labour Court to the extent of granting back wages is hereby set aside. However, rest of the Award is confirmed.

6. Accordingly, the present Writ Petition is allowed in part. However, in the circumstances of the case, there shall be no order as to costs.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the present writ petition stand closed.

ABHINAND KUMAR SHAVILI, J

December 15, 2018
Mgr