

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.8415 of 2013

ORDER:

The Writ Petition is filed seeking to issue a Writ of *Certiorari* calling for records relating to the impugned order dated 21.07.2012 in I.D.No.24 of 2007 on the file of the Labour Court, Godavarikhani and set aside the same as illegal and arbitrary and to pass such other order or orders just and necessary in the circumstances of the case.

2. Brief facts of the case are that respondent No.2 was appointed as Driver Gr.II under Reg.17 in the time scale w.e.f. 01.03.1989. While respondent No.2 was absent to his duties from 22.04.2002 till 23.05.2002, the T.I.II, Korutla Depot has submitted a report dated 23.05.2002 to the Depot Manager. Based on the said report, a charge sheet dated 23.05.2002 was issued against respondent No.2. Despite respondent No.2 having acknowledged the charge sheet by registered post with acknowledgment due, he failed to submit his explanation within the stipulated period. The management, in order to provide an opportunity to respondent No.2 to defend himself and to meet

the principles of natural justice, sent the case to the C.I. Korutla duly nominating him as Enquiry Officer to conduct a detailed enquiry and submit the report. Despite respondent No.2 received the notice to attend the enquiry, he failed to attend. Therefore, an *ex parte* enquiry was conducted and the Enquiry Officer submitted his report dated 23.06.2002 to the Depot Manager holding the respondent No.2 guilty of the charge. The Depot Manager sent a copy of the enquiry report to respondent No.2 calling for his objections/comments on 25.06.2002 through registered post with acknowledgment due. Respondent No.2 having acknowledged the enquiry report failed to submit his objections/comments. Based on the said enquiry report, a show cause notice, for removal from service, dated 12.07.2002 was issued to respondent No.2 to submit his explanation as to why the proposed penalty should not be inflicted upon him. Despite respondent No.2 acknowledged the said notice, he failed to submit his explanation. The Depot Manager vide proceedings No.E1/1(02)/2002-KRTL dated 30.07.2002 ordered removal from service of respondent No.2 with immediate effect. Against which respondent No.2 preferred an appeal before the Divisional

Manager, Jagityal and the same was rejected vide proceedings No.PA/19(36)/2004-DVM/JGTL dated 09.08.2004. Thereafter respondent No.2 preferred a review petition before the Regional Manager, Karimnagar and the same was allowed by reinstating respondent No.2 into service as afresh driver vide proceedings dated 04.12.2004. Aggrieved of the same, respondent No.2 herein raised I.D. under Section 10(1)(c) of the Industrial Disputes Act for adjudication vide G.O.Rt.No.1694 dated 23.07.2007. The Tribunal passed an award dated 21.07.2012 setting aside the order dated 04.12.2004 and directed the petitioner Corporation to give continuity of service to respondent No.2 from 01.03.1989 and other consequential attendant benefits but without back wages from 22.04.2002 to 04.12.2004. Challenging the same, the petitioner Corporation filed the present Writ Petition.

3. Heard learned Standing Counsel for petitioner-Corporation, learned counsel for respondent No.2 and perused the material available on record.

4. Learned Standing Counsel appearing for petitioner-Corporation would contend that the Tribunal failed to see that the charge raised against respondent No.2 stand proved beyond any reasonable doubt and therefore, the penalty of reinstatement into service as afresh driver imposed against respondent No.2 is not only just and proper but legal and valid. Considering all the material facts, the appellate authority as well as reviewing authority of the Corporation rejected the case of respondent No.2. Therefore, the Tribunal arbitrarily and illegally passed the impugned order and the same is liable to be set aside.

5. On the other hand, learned counsel for respondent No.2 would contend that the impugned order passed by the Tribunal is justified and does not suffer with any illegality or irregularity warranting interference of the Court.

6. This Court, having considered the rival submissions of both the counsel, is of the considered view that the Tribunal has rightly passed the impugned order by reinstating respondent No.2 with continuity of service but without back wages from

22.04.2002 to 04.12.2004 and there are no merits in the Writ Petition and the same is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No costs.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

ABHINAND KUMAR SHAVILI, J

20.11.2018
MVA

