

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.17282 of 2004

ORDER

This writ petition is filed seeking to issue a writ of certiorari calling for the record relating to and connected with I.D.No.99 of 2001 on the file of the 2nd respondent and quash the Award dated 25.11.2003 passed therein holding it as illegal and arbitrary.

Heard Sri P.Vinayaka Swamy, learned Standing Counsel appearing for the petitioner-Corporation, and learned Government Pleader for Labour appearing on behalf of the 2nd respondent.

It is the case of the petitioner-Corporation that the 2nd respondent-workman was appointed as Conductor in the Corporation and was discharging his duties such. While so, on 21-02-1997, a check was exercised by the checking officials and they found that the petitioner had indulged in cash and ticket irregularities. His conduct was construed as misconduct and after initiating disciplinary proceedings and after conducting regular enquiry and for the proven misconduct, the disciplinary authority had imposed punishment of removal on the 2nd respondent *vide* order dated 15.07.1997. The appeal and review preferred by the 2nd respondent were rejected. Thereafter, the 2nd respondent filed

I.D.No.99 of 2001 before the 1st respondent-Industrial Tribunal-cum-Labour Court, Anantapur, under Section 2-A (2) of the Industrial Disputes Act, 1947. The Labour Court, without properly appreciating any of the contentions raised by the Corporation, passed the Award dated 25.11.2003 granting continuity of service to the 2nd respondent-workman, with 50% back wages till 3.4.2001 and full back wages from 4.4.2001 till the date of reinstatement. Aggrieved thereby, the present writ petition is filed.

Learned Standing Counsel appearing for the petitioner-Corporation contends that since the charge levelled against the 2nd respondent-workman with regard to cash and ticket irregularities was proved in the enquiry, the Labour Court ought not to have interfered with the punishment of removal and ought not to have granted reinstatement with 50% back wages till 3.4.2001 and full back wages from 4.4.2001 till the date of reinstatement; that on 24.09.2004, this Court granted interim suspension subject to condition of the petitioner depositing half of the amount due towards back wages and in pursuance of the same, the petitioner has deposited the amount; that *vide* order dated 04.04.2005, this Court permitted the 2nd respondent to withdraw the same; that the order passed by the Labour Court may be confined to the back

wages which were deposited in pursuance of the interim order passed by this Court.

Learned Government Pleader appearing for the 1st respondent contends that the Labour Court has rightly passed the award in favour of the 2nd respondent and, therefore, no interference is called for.

This Court, having considered the submissions made by the learned counsel for the parties, is of the considered view that the back wages, which were already deposited by the petitioner in pursuance of the interim order granted by this Court, would be sufficient to meet the ends of justice and the Award passed by the Labour Court to the extent of directing 50% back wages till 3.4.2001 and full back wages from 4.4.2001 till the date of reinstatement is set aside.

Accordingly, the Writ Petition is disposed of. The Award passed by the 1st respondent-Labour Court is set aside to the extent of directing 50% back wages till 3.4.2001 and full back wages from 4.4.2001 till the date of reinstatement. In all other aspects, the rest of the Award is confirmed. No costs.

Consequently, miscellaneous petitions, if any, pending in the writ petition shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

12th December, 2018
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