

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.27626 OF 2007

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.97 of 2001 on the file of the 1st respondent-Labour Court and to quash the award dated 21.11.2003 passed therein to the extent of imposing punishment of deferment of two annual grade increments with cumulative effect, reducing petitioner's seniority by 100 places and denying 50% back wages to the petitioner, and consequently, to grant two increments, restore seniority and also to grant full back wages to the petitioner.

2. Heard Sri G. Ravi Mohan, learned Counsel for the petitioner and Sri A. Rama Rao, learned Standing Counsel for the 2nd respondent-Corporation.

3. It is the case of the petitioner that he was initially appointed as driver in the Corporation in the year 1989 and while he was discharging his duties, during July, 1994 due to ill-health and domestic problems, he could not attend duty and the said conduct of the petitioner was construed as misconduct by the respondent-Corporation. The disciplinary authority after conducting enquiry imposed punishment of removal on the petitioner for the proven misconduct in the enquiry vide

proceedings dated 3.4.1995. Challenging the same, the petitioner unsuccessfully preferred appeal. Thereafter, the petitioner filed I.D.No.97 of 2001 before the Labour Court under Section 2(A)-2 of the Industrial Disputes Act. The Labour Court vide order 21.11.2003 set aside the order of removal. However, the Labour Court while directing reinstatement of the petitioner, denied full back wages, imposed punishment of deferment of two annual increments with cumulative effect and also reduced the seniority of the petitioner by 100 places in the seniority list.

4. The learned Counsel for the petitioner contended that the Labour Court ought to have exercised its power under Section 11-A of the Industrial Disputes Act and granted full back wages and that the Labour Court should not have imposed major punishment of deferment of two annual increments with cumulative effect and it should not have reduced seniority of the petitioner by 100 places in the seniority list. The learned Counsel for the petitioner further contended that the award of the Labour Court to the extent of denying back wages, imposing major penalty and reducing seniority by 100 places is liable to be set aside.

5. The learned Standing Counsel for the respondent-Corporation contended that the Labour Court has rightly passed the award impugned and that the petitioner has not pointed out

any illegality or irregularity in the award impugned so as to interfere with the award impugned and that there are no merits in this writ petition and therefore, the writ petition is liable to be dismissed.

6. This Court having considered the rival submissions made by the parties is of the view that the Labour Court was right in setting aside the order of removal and denying 50% back wages and imposing punishment of deferment of two annual increments with cumulative effect. However, the Labour Court has erred in reducing the seniority of the petitioner by 100 places in the seniority list. Therefore, this Court feels that ends of justice would be met if the punishment inflicted by the Labour Court reducing the seniority of the petitioner by 100 places in the seniority list is set aside. Accordingly, the punishment of reduction of seniority of the petitioner by 100 places in the seniority list, is set aside. Rest of the award impugned is confirmed.

7. With the above modification, the Writ Petition is disposed of. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

Dated:31st October, 2018.
Nn.

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.27626 OF 2007

(disposed of)



31/10/2018

Nn.