

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 9168 of 2005

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.105 of 2002 on the file of the 1st respondent and to quash the award dated 18.10.2004 passed therein holding it as illegal and arbitrary.
2. Heard and perused the material available on record.
3. It has been contended by the petitioner that the 2nd respondent workman was appointed as Casual conductor in the Corporation, and on 9.6.2001 while she was discharging her duties, the checking officials conducted check and found cash and ticket irregularities. Further, it has been contended by the petitioner that basing on the report of the checking officials, the petitioner issued a show cause notice to the workman, for which she submitted explanation, and having not satisfied with the same, the petitioner after following the procedure passed orders for deletion of her name from the approved list vide proceedings dated 3.7.2001, aggrieved by which, she filed the appeal and the said appeal was dismissed, and thereafter, the workman filed I.D.No.105 of 2002 before the Labour Court, and the Labour Court allowed the I.D. and directed the petitioner to reinstate the workman into service with continuity of service, full

back wages and all other attendant benefits. Aggrieved by the same, the petitioner-Corporation filed this writ petition.

4. The learned Standing Counsel for the petitioner submits that the allegations made against the workman are serious in nature and that the labour Court failed to consider the terms and the nature of appointment of the workman, and that the workman is not entitled to full back wages under the principle of 'no work no pay'.

5. This Court, having considered the above submissions, is of the considered view that the workman was working only as a casual conductor and the Labour Court erred in granting full back wages. Therefore, ends of justice would be met if the award passed by the labour Court in respect of full back wages is modified to that of 50% back wages.

6. Accordingly, the Writ Petition is disposed of modifying the award passed by the labour Court in respect of full back wages to that of 50% back wages. Rest of the award is confirmed. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

20th December, 2018
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HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI



Writ Petition No.9168 of 2005
(disposed of)

20th December, 2018

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