

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.22091 of 2003

ORDER :

This writ petition is filed seeking a Writ of Certiorari to call for the records relating to and connected with the Award passed in I.D.No.35 of 1999, dated 31.08.2002 and quash or set aside the same.

2. Heard Sri P.Durga Prasad, learned Standing Counsel for petitioner-Corporation and Ms.K.Udaya Sri, learned counsel for the 1st respondent/workman.

3. It has been contended by the petitioner that the 1st respondent/workman was appointed as a Driver during August 1973 and he had remained in unauthorized absence during May, 1995. The said conduct of the 1st respondent was construed as misconduct by the petitioner-Corporation and initiated disciplinary proceedings. After conducting detailed inquiry, the disciplinary authority imposed the punishment of removal from service for the proven misconduct, on 07.08.1995. Thereafter, the 1st respondent unsuccessfully preferred appeal and review, and thereafter, he has challenged the orders of removal before the Industrial Tribunal by filing I.D.No.35 of 1999 under Section 2-A(2) of the Industrial Disputes Act. The Industrial Tribunal, vide orders dated 31.08.2002, was pleased to allow the I.D. preferred by the 1st respondent/workman, erroneously, without

appreciating any of the contentions raised by the petitioner, and granted consequential reliefs of continuity of service and full backwages.

4. Learned counsel for petitioner has pointed out that the Labour Court, just before recording the final conclusion, has held that the 1st respondent/workman is not entitled for backwages, because, he did not perform any duties during the period of absence from the date of removal, but however, in the next paragraph itself, while coming to the conclusion, the Labour Court has set aside the orders of removal and directed the petitioners to reinstate the 1st respondent/workman with continuity of service and backwages from the date of removal to the date of the Award.

5. Thus, the learned counsel for petitioner contend that the Labour Court has given two different findings, which are perverse and contrary to evidence. Therefore, at least to the extent of granting backwages, the Award passed by the Labour Court be modified.

6. Counsel appearing for the 1st respondent/workman has contended that the Labour Court has rightly passed orders and rightly awarded backwages to the 1st respondent/workman and no interference is called for with the Award passed by the Labour Court.

7. This Court, having considered the rival contentions of the parties, is of the considered view that the Labour Court, having come to the conclusion that the 1st respondent is not entitled for backwages, ought not to have granted backwages while granting consequential reliefs to the 1st respondent/workman. Therefore, that portion of the Award of the Labour Court where it granted backwages, is set aside and the Award is confirmed in all other aspects.

8. Subject to the above direction, the writ petition is disposed of.

No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

14th November, 2018

ajr

ABHINAND KUMAR SHAVILI, J