

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.8735 OF 2001

ORDER:

1. This writ petition is filed seeking to issue a writ of Mandamus declaring the award passed in I.D.No.41 of 1997, dated 29.10.1999 by the Industrial Tribunal-cum-Labour Court, Visakhapatnam and the consequential proceedings of the 1st respondent in G.O.Rt.No.82 Labour, Employment Training and Factories (Lab-I) Department, dated 13.1.2000 confirming the orders passed by respondents No.3 & 2 in proceedings dated 2.4.1996 and 23.8.1996 respectively, as highly illegal and arbitrary, and consequently, to set aside the same.

2. Heard Sri B. Bhaskara Rao, learned Counsel for the petitioner and Sri S.V. Ramana, learned Standing Counsel for APSRTC.

3. It has been submitted by the petitioner that he was appointed as casual conductor on 12.11.1987 and while he was conducting the bus on the route Palasa to Bhatili in Srikakulam District, on 8.10.1995, the checking officials conducted check and noticed that the petitioner had indulged in cash and ticket irregularities. It has been further submitted that the said act of the petitioner was construed as misconduct and disciplinary proceedings were initiated and charge memo on 2.11.1995 was issued to him and thereafter, the 3rd respondent after conducting regular departmental enquiry, disengaged the services of the petitioner for the proven misconduct vide orders, dated 2.4.1996 and the petitioner has preferred appeal before the 2nd respondent-appellate authority and the said appeal was rejected vide order dated 23.8.1996 and challenging the same, the petitioner filed I.D.No.41 of 1997 before the Tribunal. The learned

Tribunal passed nil award vide order dated 29.10.1999. Challenging the same, the present writ petition has been filed.

4. The learned Counsel for the petitioner contended that the enquiry was not properly conducted and no opportunity was given to the petitioner to prove his innocence in the departmental enquiry and the appellate authority as well as the Labour Court have not appreciated any of the facts in a proper perspective and more particularly, the Labour Court failed to exercise its powers conferred under Section 11-A of the Industrial Disputes Act and the Labour Court ought to have set aside the punishment of disengagement as it is disproportionate to the charge leveled against the petitioner.

5. The learned Standing Counsel for APSRTC contended that for the proven misconduct of the petitioner, the punishment of disengagement was imposed by the respondents, and no interference can be called from this Court.

6. This Court having considered the rival submissions made by the parties is of the considered view that for the charge of non-issuance of tickets to a tune of about Rs.2/- and Rs.3/-, that too way back in the year 1995, the services of the petitioner were disengaged. Such punishment is shockingly disproportionate to the charge levelled against the petitioner. Therefore, the Labour Court ought to have come to the rescue of the petitioner by exercising the powers conferred under Section 11-A of the Industrial Disputes Act. Ends of justice would be met if the case of the petitioner is considered for engagement as a fresh conductor without any backwages and continuity of service.

7. Accordingly, the order passed by the 3rd respondent dated 2.4.1996 is set aside, and consequently, the order of the 2nd respondent dated 23.8.1996 and the order of the Tribunal in I.D.No.41 of 1997 dated 29.10.1999 are set aside. The respondent-Corporation is directed to reengage the petitioner as a fresh conductor without any backwages and continuity of service, if the petitioner is medically fit.

8. With the above direction, the Writ Petition is allowed. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

Dated: 15th June, 2018
Nn

(ABHINAND KUMAR SHAVILI, J)



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15.6.2018

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