

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 14626 of 2005

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.18 of 2003 on the file of the Labour Court-III, Hyderabad, and quash the award dated 22.03.2005 passed therein by holding it as illegal and arbitrary. A consequential direction to reinstate the petitioner into service with full back wages and other attendant benefits, is also sought.

2. Heard Sri A.K. Jayaopprakash Rao, learned counsel for the petitioner, and Sri B. Mayur Reddy, learned standing counsel for APSRTC, appearing for the 2nd respondent.

3. It has been contended by the petitioner that he was appointed as a Cleaner in 1991 in the 2nd respondent corporation and later promoted as a Mechanic in 1996. While so, the 2nd respondent corporation issued a charge sheet alleging that he attempted to steal three materials, for which he submitted explanation denying the charges. Not satisfied with his explanation, the 2nd respondent corporation had conducted a detailed enquiry and the Enquiry Officer found the charge proved. Basing on the enquiry report submitted by the Enquiry Officer, the 2nd respondent corporation terminated him from service vide order dated 19.03.2001. Questioning the same, he preferred an appeal and the same was rejected. Aggrieved thereby, he raised an

industrial dispute before the Labour Court, Hyderabad-III, in I.D.No.18 of 2003 and the same was dismissed vide orders dated 22.03.2005. The same is challenged in this writ petition.

4. The grievance of the petitioner is that the Labour Court ought to have interfered with the punishment of removal on the proportionality theory and reinstated the petitioner into service.

5. Learned standing counsel for the 2nd respondent corporation submitted that the Labour Court had rightly passed the award while confirming the orders passed by the disciplinary authority and since the charge leveled against the petitioner is serious and grave and it was proved, the question of showing any lenience towards the petitioner would not arise. Therefore, the writ petition is liable to be dismissed.

6. This Court, having considered the submissions made by the parties, is of the considered view that the Labour Court had not considered the case of the petitioner properly and simply relied upon the findings of the enquiry officer and held that the charge was proved. The Labour Court ought to have considered the case of the petitioner by applying the principle of wednesbury i.e., proportionality theory and interfered with the punishment of removal. This Court finds that the punishment of removal is disproportionate to the proven misconduct. Therefore, ends of justice would be met, if the writ

petition is disposed of with a direction to the 2nd respondent corporation to reinstate the petitioner into service afresh.

7. Accordingly, the writ petition is disposed of, directing the 2nd respondent corporation to reinstate the petitioner into service as a fresh entrant without continuity of service and back wages, within a period of four (4) weeks from the date of receipt of a copy of this order.

Consequently, miscellaneous petitions, if any, pending in the writ petition shall stand closed. No order as to costs.

ABHINAND KUMAR SHAVILI, J

24th August, 2018
cbs



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(disposed of)

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