

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.23856 of 2003

ORDER:

This writ petition has been filed seeking a writ of certiorari to call for the records related to and connected with the orders passed in I.D.No.16 of 1998, dated 26.08.2001 passed by the Labour Court and quash or set aside the same, holding it as arbitrary, illegal, and consequently direct the 1st respondent to reinstate the petitioner with continuity of service, with all attendant benefits and full back wages.

2. Heard learned counsel for the parties.

3. It has been contended by the petitioner that he was initially appointed as a Conductor in the year 1987, and while he was discharging his duties on 06.08.1997, the checking officials of the respondent-Corporation conducted check and alleged that he indulged in cash and ticket irregularities. The respondent-Corporation, construing the said act as misconduct, initiated disciplinary proceedings against the petitioner, and after conducting enquiry, imposed the punishment of removal from service on the petitioner. Aggrieved by the same, the petitioner filed I.D.No.16 of 1998 before the Labour Court. But the Labour Court dismissed the I.D. Challenging the same, the present writ petition is filed.

4. The counsel for the petitioner submitted that except for the incident in question, there are no such other incidents in the entire service career of the petitioner and that the punishment of removal is very disproportionate and that the Labour Court ought to have applied

proportionality theory and interfered with the punishment of removal, but the Labour Court has erroneously dismissed the I.D.

5. The Standing Counsel for the 1st respondent contended that the disciplinary authority imposed punishment of removal for the proven misconduct and the Labour Court has rightly dismissed the I.D., and therefore, the award impugned does not warrant any interference.

6. This Court, having considered the submissions made by the parties and the nature of the charges leveled against the petitioner, is of the considered view, that the punishment of removal imposed on the petitioner is very disproportionate and the Labour Court ought to have examined the case of the petitioner and interfered with the punishment of removal, by applying the proportionality theory and at least, the Labour Court ought to have directed the Corporation to reinstate the petitioner into service as fresh Conductor. Since the punishment of removal is shockingly disproportionate, this Court feels that ends of justice would be met if the respondent-Corporation is directed to reinstate the petitioner into service as fresh Conductor.

7. Accordingly, the writ petition is disposed of, directing the Respondent-Corporation to reinstate the petitioner into service as fresh Conductor, subject to medical fitness, without continuity of service, without back wages and other attendant benefits. There shall be no order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

14th November, 2018
ajr