

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 11933 of 2004

O R D E R:

The present writ petition is filed seeking *Certiorari* calling for records pertaining to and connected with the Award dated 22.03.2003, passed in ID No.386 of 1988 on the file of respondent No.2, and quash the same as illegal and arbitrary.

2. The brief facts of the case are that respondent No.1-workman was appointed as Driver on 8.01.1985. While he was working as such, on 08.05.1986, a check was exercised by the squad on the bus bearing No. AAZ 1284, and found that the petitioner had issued four tickets to the passengers, which were already issued and accounted for in the earlier trip. Thereafter, petitioner-Corporation initiated disciplinary proceedings against him. After conducting domestic enquiry, a charge sheet was issued by framing certain charges against respondent No.1-workman. During enquiry, the said charges were proved and accordingly, enquiry report was submitted by the enquiry officer. Basing on the enquiry report, petitioner issued a show cause notice of removal of the petitioner and thereafter, by final orders dated

02.09.1996 removed the petitioner from service. Aggrieved by the same, respondent No.1 - workman raised an Industrial Dispute in ID No.386 of 1988 before respondent No.2- Labour Court, wherein the Presiding Officer set aside the order of removal dated 02.09.1996 and reinstated the petitioner with continuity of service but without back wages. Aggrieved by the same, respondent No.1-workman filed WP No.3662 of 1996, wherein this court allowed the said writ petition by order dated 04.02.2002 and set aside the award passed by the tribunal and denied back wages and remitted back the case to the tribunal for fresh consideration. The tribunal after reconsidering the material on record, passed the impugned award dated 22.03.2003 directing the petitioner-corporation to pay 50% of back wages to respondent No.1-workman and as a measure of punishment, to defer two annual increments with cumulative effect. Aggrieved by the same, the present writ petition is preferred by the petitioner-corporation.

3. Heard learned Standing Counsel for petitioner-Corporation and learned counsel for respondent No.1-workman.

4. The learned Standing Counsel for petitioner-Corporation would contend that respondent No.2 without appreciating any of

the contentions raised by the petitioner-corporation for the proved misconduct against respondent No.1, in a mechanical way passed the impugned Award in favour of workman and at any rate, no reasons were assigned for awarding half of the backwages and therefore, the impugned order is liable to be dismissed.

5. The learned counsel for respondent No.1-workman contended that in pursuance of the impugned order, respondent No.1-workman was reinstated and the corporation has already paid 25% of the back wages and the balance 25% of the back wages are yet to be paid to him.

6. Perused the material on record as well as the impugned order.

7. As seen from the impugned order, respondent No.2 having taken a lenient view against respondent No.1-workman, and as a measure of punishment, imposed the penalty of deferment of two annual grade increments with cumulative effect.

8. Having heard the rival contentions of both the counsel, and considering the case of the respondent No.1-workman sympathetically, this court is of the considered view that ends of justice would be met, if the impugned order is modified limiting the backwages to the extent of 25% instead of 50%, which the

petitioner-Corporation has already paid to respondent No.1-
workman. Rest of award passed by respondent No.2 stands
unaltered.

9. With the above observations, the writ petition is disposed of.

No costs.

10. Miscellaneous Petitions, if any, pending in this writ Petition
shall stand closed.

04.10.2018
MjI/*



ABHINAND KUMAR SHAVILI, J