

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 26562 of 2003

ORDER:

This writ petition is filed seeking to issue a writ of certiorari calling for the records relating to and connected with I.D.No.115 of 2002 on the file of the 2nd respondent-Labour Court and quash the order dated 28.04.2003 passed therein whereby the Labour Court while setting aside the order of removal of petitioner from service directed the 1st respondent to reinstate the petitioner into service with continuity of service, but without back wages and further imposed punishment of stoppage of two annual increments with cumulative effect, holding it as illegal and arbitrary. A consequential direction is also sought to the 1st respondent to release the back wages without any cut of two annual increments.

Learned counsel for the petitioner submits that during pendency of the writ petition, the petitioner has retired from service on attaining the age of superannuation and that the 1st respondent corporation is not paying the terminal benefits of the petitioner since the writ petition is pending. He contends that the Labour Court ought to have exercised its power under Section 11-A of the Industrial Disputes Act, 1947 and granted back wages and ought not to have imposed further punishment of stoppage of two annual increments with cumulative effect.

On the other hand, learned standing counsel for the 1st respondent corporation contends that the Labour Court has rightly

passed the orders impugned in the writ petition by exercising its power under Section 11-A of the Industrial Disputes Act and by applying the proportionality theory and, therefore, no interference is called for from this Court.

This Court having considered the rival submissions made by the learned counsel on either side is of the considered view that the Labour Court has rightly passed the impugned orders and denied back wages and imposed further punishment of stoppage of two annual increments with cumulative effect. Further, no illegality or irregularity is pointed out by the learned counsel for the petitioner in the order passed by the Labour Court. Unless and until any illegality or irregularity is pointed out by the learned counsel for the petitioner in the order passed by the Labour Court, this Court cannot interfere with the award. However, the writ petition can be disposed of with a direction to the 1st respondent corporation to release the terminal benefits of the petitioner, if not already paid, within four weeks from the date of receipt of a copy of this order.

With the above direction, the writ petition is disposed of. Consequently, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

ABHINAND KUMAR SHAVILI, J

28th November, 2018
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HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI



Writ Petition No. 26562 of 2003
(disposed of)

13th November, 2018

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