

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P. No.18960 of 2007ORDER:

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. 39 of 2005, dated 31.10.2005 passed by the Labour Court and quash or set aside the same, holding it as arbitrary, illegal, and consequently direct the respondent to reinstate the petitioner with continuity in service, with all attendant benefits and full back wages.

2. Heard Sri G.Ravi Mohan, counsel for the petitioner and Sri B.Mayur Reddy, Standing Counsel for the respondent-Corporation.

3. It has been contended by the petitioner that he was initially appointed as a Conductor in the year 1985, and while he was discharging his duties on 04.02.2002, 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 on 15.02.2003. Aggrieved by the same, the petitioner filed I.D.No. 39 of 2005 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 respondent-Corporation 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 by the respondent-Corporation 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 Respondent-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. Miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

Date: 30.10.2018
DMG

