

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.12462 OF 2005

ORDER

This writ petition is filed seeking the following relief:

“...to issue an appropriate writ or direction particularly one in the nature of Writ of Certiorari and quash the impugned Award dated 02.11.2002 made in I.D.No.119/1999 published on 6.1.2003 in not granting any relief as arbitrary, unjust and in violation of Articles 14, 16 and 21 of the Constitution of India and consequently direct the respondents to extend all the consequential benefits in the interest of justice and fair play.”

Heard Sri V.Narsimha Goud, learned counsel appearing for the petitioner, and Sri VTM Prasad, learned Standing Counsel appearing for the respondent-Corporation.

Learned counsel appearing for the petitioner contends that the Labour Court ought to have granted continuity of service for the purpose of terminal benefits without monetary benefits, and that pursuant to the order passed by the 1<sup>st</sup> respondent, the petitioner was reinstated into service and he had retired from service on attaining the age of superannuation.

Learned Standing Counsel appearing for the respondent-Corporation contends that the disciplinary authority has passed the removal order; that the appellate authority has modified the punishment to that of

reinstatement into service as Driver fresh without back wages and continuity of service; and that the Labour Court after taking into consideration all the aspects, rightly dismissed the ID and that no interference is called for from this Court.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that the Labour Court failed to appreciate the fact that no other allegations were levelled against the petitioner in his entire career, and therefore, it ought to have interfered with the punishment on the proportionality theory in exercise of its powers under Section 11-A of the Industrial Disputes Act, 1947, and granted continuity of service atleast for the purpose of terminal benefits, without monetary benefits.

Accordingly, the Writ Petition is disposed of directing the respondent-Corporation to treat the reinstatement of the petitioner into service as Driver fresh with continuity of service for the purpose of terminal benefits, without monetary benefits. In all other aspects, the rest of the Award is confirmed. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

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JUSTICE ABHINAND KUMAR SHAVILI

24<sup>th</sup> December, 2018  
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