

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 15842 of 2005

ORDER:

This writ petition is filed seeking to issue a Writ of Mandamus calling for the records relating to the Award in I.D.No.187 of 2002, on the file of Industrial Tribunal-cum-Labour court, Visakhapatnam, dated 23.06.2004, and set-aside the same, by holding it as illegal and arbitrary, and to direct the Respondent No.1 herein to reinstate the petitioner into service with continuity of service with all attendant benefits along with back wages.

2. Heard the counsel for the petitioner and learned standing counsel for the respondent-corporation.

3. It is the case of the petitioner that he was appointed as Conductor in the 1st respondent –corporation and while he was discharging his duties, the checking officials of the respondent-corporation alleged certain irregularities against him and thereafter issued a Charge Sheet on 25.10.1999. The respondent-Corporation, construing the said act as misconduct, initiated disciplinary proceedings against the petitioner, and after conducting enquiry, imposed punishment of removal from service on the petitioner on 22-04-2000. Thereafter, the petitioner has unsuccessfully preferred an appeal and review, and filed I.D.No.187 of 2002 before the Labour Court-I. But the Labour Court-I dismissed the I.D. Challenging the same, the present writ petition is filed.

4. Learned counsel for the petitioner submitted that the punishment of removal is very disproportionate and that the Labour Court-I ought to have applied proportionality theory and interfered with the punishment of removal, but the Labour Court-I has erroneously dismissed the I.D.

5. Learned Standing Counsel for the respondent-Corporation contended that the disciplinary authority imposed punishment of removal for the proven misconduct and the Labour Court-I 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. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

28th December, 2018
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