

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION Nos. 13040 and 14585 of 2007

COMMON ORDER:

Challenging the award dated 05.01.2007 passed by the Labour Court-III, Hyderabad, in I.D.No.100 of 2005, whereby the Labour Court, while setting aside the order of removal dated 04.02.2005, directed reinstatement of the workman with continuity of service, but without back wages and attendant benefits, W.P.No.13040 of 2007 is filed by the employer, while W.P.No.14585 of 2007 is filed by the workman to the extent of not granting back wages and other attendant benefits.

2. Since the point involved in these two writ petitions is one and same, both the writ petitions are heard together and are being disposed of by this common order.

3. For the sake of convenience, the facts in W.P.No.14585 of 2007 are discussed herein.

4. Heard Sri V. Narasimha Goud, learned counsel for the petitioner workman and Sri A. Ravi Babu, learned standing counsel for TSRTC, appearing for the respondents.

5. It has been contended by the petitioner workman that he was appointed as a Conductor in the respondent corporation on 23.05.1989. While he was conducting a bus on 26.09.2003, the checking officials of the respondent corporation conducted a check

and found that he had indulged in cash and ticket irregularities and the respondent corporation construed his conduct as misconduct and issued a charge sheet and, after a detailed enquiry, imposed a punishment of removal on him on 04.02.2005 for the proven misconduct. Aggrieved thereby, he preferred an appeal which was also dismissed and, thereafter, raised an industrial dispute before the Labour Court-III, Hyderabad, in I.D.No.100 of 2005, under Section 2-A(2) of the Industrial Disputes Act. While holding that the charges 1 to 6 are not proved against him and no misconduct or misappropriation of fare amount by him is established, the Tribunal passed an Award dated 05.01.2007 setting aside the order of removal dated 04.02.2005 and directing the respondent corporation to reinstate him into service as Conductor with continuity of service, but without back wages and attendant benefits. Challenging the award of the Labour Court to the extent of denying back wages and attendant benefits, W.P.No.14585 of 2007 is filed.

6. Learned counsel for the workman has contended that when the Labour Court held that none of the charges leveled against the workman are proved, it ought to have granted back wages and attendant benefits also.

7. On the other hand, learned standing counsel for the respondent corporation has contended that the Labour Court was not right in passing the award in favour of the workman and it ought to have dismissed the I.D. preferred by the workman.

8. During the course of hearing, it is brought to the notice of the Court that the workman had expired during pendency of the writ petition and his legal representatives were brought on record.

9. This Court, having considered the submissions made by the parties, is of the considered view that when once the Labour Court has held that the charges are not proved, it ought to have granted back wages. No discussion is made as to whether the workman is entitled for back wages or not. Apart from that, a specific contention is raised by the workman that he was out of employment from the date of removal till the impugned award is passed in his favour. In all fairness, the Labour Court ought to have discussed as to whether the workman is entitled for back wages or not. No illegality or perversity is pointed out by the learned standing counsel for the respondent corporation in the impugned award. In view of the above, ends of justice would be met, if 50% of back wages are awarded in favour of the workman.

10. Accordingly, W.P.No.14585 of 2007 is disposed of. The deceased workman is entitled for 50% of back wages. The Legal Representatives of the deceased workman are at liberty to submit a representation to the respondent corporation within two (2) weeks from the date of receipt of a copy of this order, and upon submission of such a representation, the respondent corporation shall pay 50% of the back wages to the legal representatives of the deceased workman

within eight (8) weeks thereafter. W.P.No.13040 of 2007 is dismissed.

Consequently, miscellaneous petitions, if any, pending in the writ petitions shall stand closed. No order as to costs.

ABHINAND KUMAR SHAVILI, J

14th August, 2018
cbs



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(dismissed & disposed of)

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