

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 11199 of 2004

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.91 of 2001 on the file of the 1st respondent - Labour Court and quash the award dated 22.10.2003 passed therein holding it as illegal and arbitrary.

Heard Sri A. Ramarao, learned standing counsel for APSRTC appearing on behalf of the petitioners, and Sri G. Ravibabu, learned counsel for the 2nd respondent workman.

It has been contended by the petitioner corporation that the 2nd respondent was appointed as Driver in the corporation. While he was discharging his duties, on 04.03.1994, he caused a fatal accident resulting in death of a boy. The said incident was construed as misconduct, and after conducting a detailed enquiry, the corporation removed the 2nd respondent from service for the proven misconduct vide proceedings dated 03.08.1994. Questioning the same, the 1st respondent unsuccessfully preferred an appeal and, thereafter, filed a review petition. The reviewing authority, vide proceedings dated 09.08.1995, directed that the 2nd respondent be reinstated into service and that the suspension be treated as not on duty. As per the orders of the reviewing authority, the 2nd respondent has to join duty within 10 days, but he failed to report for duty within the stipulated time. Therefore, the reviewing authority recalled its earlier orders of reinstatement vide orders dated 24.12.1996. Challenging the order of removal dated

03.08.1994, the 2nd respondent raised an Industrial dispute before the 1st respondent - Labour Court in I.D.No.91 of 2001 under Section 2-A (2) of the Industrial Disputes Act, 1947. The Labour Court, on erroneous consideration and without properly appreciating the contentions raised by the corporation, passed an award dated 22.10.2003 by setting aside the order of removal and directing the corporation to reinstate the 2nd respondent into service. However, it is made clear that the 2nd respondent shall not be entitled for any back wages from 09.08.1995 i.e., from the date of the order of reviewing authority till the date of filing of claim petition i.e., 13.02.2001, but, the Labour Court granted full back wages for the remaining period. Aggrieved by the same, the corporation filed the present writ petition.

Learned standing counsel for the petitioner corporation has contended that the Labour Court erred in awarding back wages especially when there are no mala fides on the part of the corporation. The Labour Court ought to have seen that the 2nd respondent failed to report for duty as per the orders of the reviewing authority, and that, therefore, the Labour Court ought not to have granted full back wages to the 2nd respondent and ends of justice would be met if only 50% of back wages are granted to the 2nd respondent.

On the other hand, the 2nd respondent has contended that the Labour Court has rightly passed the impugned award and no illegality or irregularity is pointed out by the learned standing counsel for the petitioner corporation in the impugned award. Therefore, no interference is called for from this Court.

Having considered the submissions made by the learned counsel on either side and perused the record, this Court is of the considered view that without taking into consideration the fact that the 2nd respondent had approached the Labour Court after more than 5 years, the Labour Court awarded full back wages to the 2nd respondent. The Labour Court ought to have granted only 50% of back wages to the 2nd respondent. Therefore, ends of justice would be met if the award of the Labour Court, in respect of granting full back wages is modified to that of 50% of back wages.

Accordingly, the writ petition is disposed of and the award of the Labour Court, in respect of granting full back wages, is modified to that of 50% of back wages. The rest of the award of Labour Court is confirmed.

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

5th October, 2018
cbs

ABHINAND KUMAR SHAVILI, J

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI



Writ Petition No. 11199 of 2004
(disposed of)

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