

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.24290 of 2008

ORDER:

1. This writ petition is filed seeking to issue a Writ of Certiorari calling for the records relating to and connected with I.D.No.85 of 2006 on the file of the Labour Court, Godavarikhani and to quash the award dated 28.6.2008 passed therein only to the extent of denying the reinstatement on regular basis with continuity of service and all other attendant benefits including full back wages, and consequently, to direct the respondent herein to reinstate the petitioner on regular basis with continuity of service and all attendant benefits including full back wages.

2. Heard Sri P. Govindarajulu, learned Counsel for the petitioner and Sri A. Ravi Babu, learned Standing Counsel for the respondent.

3. It is the case of the petitioner that she was appointed as conductor on 24.7.1998 and her services were regularized vide order dated 1.8.2000. While she was discharging her duties, during January, 2004 the respondent issued a charge sheet alleging that the petitioner indulged in cash and ticket irregularities. The respondent after conducting a detailed enquiry, for the proven misconduct in the enquiry, imposed punishment of removal vide order dated 15.7.2004 and

thereafter, the petitioner unsuccessfully preferred appeal and review. Thereafter, she filed I.D.No.85 of 2006 under Section 2-A(2) of the Industrial Disputes Act. The Labour Court passed the award setting aside the order of removal. However, the Labour Court denied the continuity of service, back wages and other attendant benefits and directed the respondent to reinstate the petitioner into service as a daily wage conductor only. Aggrieved by denial of reinstatement on regular basis with continuity of service and back wages, the petitioner filed this writ petition.

4. The learned Counsel for the petitioner contended that the Labour Court should not have ordered for reinstatement of the petitioner as daily wage conductor and the Labour Court failed to appreciate the fact that the petitioner was regularly employed and her services were also regularized, and therefore, the question of reinstating the petitioner into service on daily wage basis would not arise. The learned Counsel for the petitioner submits that appropriate orders may be passed directing the respondent to reinstate the petitioner on regular basis, instead of daily wage conductor, with continuity of service and back wages.

5. The learned Standing Counsel for the respondent contended that the Labour Court modified the punishment of removal in exercise of its powers under Section 11-A of the

Industrial Disputes Act and that the Labour Court has rightly denied the continuity of service, back wages and other attendant benefits and that the Labour Court has rightly directed that the petitioner be reinstated into service as daily wage conductor and that there are no merits in this writ petition.

6. This Court having considered the rival submissions made by the parties is of the view that the Labour Court ought to have reinstated the petitioner as regular conductor instead of daily wage conductor. When once the services of the petitioner were regularized, the direction given by the Labour Court for reinstatement of the petitioner on daily wage basis would be too harsh. Therefore, the direction given by the Labour Court in the award passed in I.D.No.85 of 2006 dated 28.6.2008 for reinstatement of the petitioner into service as a daily wage conductor, is modified to that of reinstatement of the petitioner into service as a regular conductor. The petitioner is entitled for continuity of service only for the purpose of terminal benefits without any monetary benefits and without any back wages.

7. With the above modification, the Writ Petition is disposed of. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

Dated: 27th November, 2018
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HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI



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