

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.6649 OF 2007

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.143 of 2003 on the file of the 2nd respondent-Labour Court and to quash the award dated 30.12.2005 passed therein.

2. Heard Sri N. Vasudeva Reddy, learned Standing Counsel for the petitioner and Sri P. Venkateswar Rao, learned Counsel for the 1st respondent-workman.

3. It is the case of the petitioner that the 1st respondent-workman was engaged as casual conductor during May, 1997 and while he was discharging his duties as such, during March, 2002, checking officials of the petitioner-corporation conducted a check and found that the 1st respondent indulged in cash and ticket irregularities. The petitioner construed the said irregularities as misconduct and initiated disciplinary proceedings against the 1st respondent-workman. The petitioner after conducting departmental enquiry removed the 1st respondent-workman from service on 6.11.2002. Thereafter, the 1st respondent-workman unsuccessfully challenged the same in appeal and review. Thereafter, he filed

I.D.No.143 of 2003. The Labour Court vide order dated 30.12.2005 erroneously set aside the order of removal and directed the petitioner to reinstate the 1st respondent-workman into service with continuity of service but without back wages. Challenging the same, the petitioner-Corporation filed this writ petition.

4. Learned Standing Counsel for the petitioner-Corporation contended that the labour Court has failed to appreciate that the disciplinary authority imposed punishment of removal for the proven misconduct in the enquiry and that no illegality has been committed by the disciplinary authority, but without appreciating any of the contentions raised by the petitioner, the Labour Court has passed the award impugned in favour of the respondent-workman.

5. The learned Counsel for the respondent-workman contended that the Labour Court has rightly passed the award in favour of the respondent-workman by exercising its powers under Section 11-A of the Industrial Disputes Act and that the Labour Court has rightly exercised its power by applying theory of proportionality and when once the Labour Court has exercised its power under Section 11-A of the Industrial Disputes Act, unless and until some grave irregularity has been pointed out the Court will not interfere with the award of the Labour Court.

6. This Court having considered the rival submissions made by the parties is of the view that the petitioner has not pointed out any illegality or irregularity in the award impugned. More over, the Labour Court has come to the rescue of the respondent-workman by applying proportionality theory i.e., **Wednesbury** principle. Therefore, this Court is not inclined to interfere with the award impugned.

7. Accordingly, the Writ Petition is dismissed. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

Dated: 8th October, 2018
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08.10.2018

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