

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.22454 of 2003

ORDER :

The petitioner is challenging the orders passed by the Industrial Tribunal in I.D.No.206 of 1993, dated 08.11.2002, whereby, no relief was granted to the petitioner.

Before the Industrial Tribunal, the petitioner was challenging the orders of dismissal imposed by the 2nd respondent-Management, on the allegation that he had committed theft and after conducting detailed inquiry, the 2nd respondent-Management had imposed the punishment of dismissal on the petitioner. Challenging the same, the petitioner had invoked the jurisdiction of Labour Court by filing I.D.No.206 of 1993 under Section 2-A(2) of the Industrial Disputes Act. The Industrial Tribunal had declined to interfere with the punishment of dismissal.

Learned counsel for petitioner contended that the Labour Court ought to have applied the principle of proportionality theory and interfered with the punishment of dismissal, as the punishment imposed is shockingly disproportionate to the proven charge. He contended that appropriate orders be passed in the writ petition directing the 2nd respondent to reinstate the petitioner with all consequential benefits.

Learned counsel appearing for the 2nd respondent-Management has contended that the petitioner had indulged in

serious misconduct and the said misconduct was proved in a regular departmental inquiry and no lenient view can be taken in the matters of this nature. There are no merits in the writ petition and the same is liable to be dismissed.

Having considered the rival contentions of the parties, this Court is of the considered view that the Labour Court ought to have exercised its powers under Section 11-A of the Industrial Disputes Act and applied the principle of proportionality theory and at least ought to have granted compensation in lieu of reinstatement. This Court is of the considered view that ends of justice would be met if the 2nd respondent-Management is directed to pay a sum of Rs.30,000/- (Rupees Thirty thousand only) within four weeks from the date of receipt of a copy of this order, as compensation in lieu of reinstatement and as full and final settlement of all other claims of the petitioner.

With the above directions, the writ petition is disposed of.
No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

16th November, 2018

ajr