

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 8869 of 2004

ORDER:

This writ petition is filed seeking to issue a writ of mandamus declaring the proceedings dated 28.04.2004 issued by the 1st respondent imposing the penalty of removal of petitioner from service, as illegal and arbitrary.

2. Heard Ms. Ch. Lakshmi Kumari, learned Counsel for the petitioner and learned Standing Counsel for the respondent-Corporation.

3. It has been contended by the petitioner that he was appointed as conductor in the respondent corporation in the year 1990. While so, on an alleged incident on 29.07.2003 an enquiry was conducted, basing on which, the 2nd respondent under the C.C.A. Regulations had issued a show cause notice dated 19.02.2004 proposing to impose penalty of stoppage of two increments for one year with cumulative effect, for which he submitted explanation on 26.02.2004 denying the charges leveled against him and the same is pending consideration. At that stage, another show cause notice dated 02.04.2004 was issued to him proposing the enhance the penalty, for which also he submitted explanation. However, the 1st respondent without taking into consideration the explanations submitted by him to the show cause notices imposed penalty of removal from service vide orders dated 28.04.2004. Aggrieved thereby, he filed the present writ petition.

4. Learned Counsel for the petitioner submitted that except the incident in question, there are no such other incidents in the entire service career of the petitioner and that the punishment of removal is very disproportionate and that the 1st respondent ought not to have imposed the punishment of removal from service.

5. Learned Standing Counsel for the respondent-Corporation contended that the 1st respondent has rightly imposed the punishment of removal from service for the proven misconduct and therefore, the impugned proceedings do not warrant any interference.

6. This Court having considered the submissions made by the parties and the gravity of the charges levelled against the petitioner, is of the considered view that the punishment of removal imposed by the 1st respondent is very disproportionate and the 1st respondent ought to have examined the case of the petitioner and interfered with the punishment of removal and at least ought to have ordered reinstatement of the petitioner into service as fresh conductor. Since the punishment of removal is shockingly disproportionate, this Court feels that ends of justice would be met if the respondent-Corporation is directed to reinstate the petitioner into service as fresh conductor.

7. Accordingly, the Writ Petition is disposed of directing the respondent-Corporation to reinstate the petitioner into service subject to medical fitness, as a fresh conductor, without continuity of service, back wages and other attendant benefits. No order as to costs.

Consequently, miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

29th November, 2018
cbs



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(disposed of)

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