

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 22714 of 2002

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.287 of 2000 on the file of the 1st respondent-Labour Court and to quash the award dated 08.08.2001 passed therein, by holding it as illegal and arbitrary.

2. Heard 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 Driver in the corporation in the year 1989. While so, he was issued with a charge sheet dated 14.07.1995 on the allegation that he violated the procedure contemplated under the Regulations. The respondent-Corporation construing the said act as misconduct initiated disciplinary proceedings against him and after conducting enquiry, imposed punishment of removal from service on him on 29.03.1996. Aggrieved by the same, he had filed I.D.No.287 of 2000 before the 1st respondent-Labour Court. But, the Labour Court dismissed the I.D. vide orders dated 08.08.2001. Challenging the same, the present writ petition is filed.

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 Labour Court ought to have applied proportionality theory and interfered with the punishment of removal, but the Labour Court has erroneously dismissed the I.D.

5. Learned Standing Counsel for the respondent-Corporation contended that the disciplinary authority imposed punishment of removal for the proven misconduct and the Labour Court has rightly dismissed the I.D., and therefore, the award impugned does 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 respondent-Corporation is very disproportionate and the Labour Court ought to have examined the case of the petitioner and interfered with the punishment of removal by applying the proportionality theory and at least, the Labour Court ought to have directed the respondent-Corporation to reinstate the petitioner into service as fresh driver. 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 driver.

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 driver, without continuity of service, back wages and other attendant benefits. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

14th December, 2018
cbs



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(disposed of)

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