

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.10496 of 2003

ORDER:

This writ petition is filed seeking a writ of certiorari calling for the records connected to I.D.No.184/2001 dated 09.12.2002 by the Industrial Tribunal and quash or set aside the same as illegal and arbitrary.

Heard learned Standing counsel for petitioner Corporation and Smt.K.Udaya Sri for respondents.

It has been contended by the learned Standing counsel for petitioners that one T.Satyanarayana was appointed as conductor in the year 1987 in the petitioner Corporation. While he was discharging his duties during the month of March, 1998, it was noticed that he remained absent unauthorisedly and the said conduct of the respondent workman was construed as misconduct by the disciplinary authority and after conducting detailed enquiry, the disciplinary authority imposed punishment of removal for the proven misconduct in the enquiry, vide order dated 10.05.2000. The said conductor preferred an appeal and was unsuccessful. Thereafter, the conductor expired on 07.02.2001. After his expiry, the legal representatives (unofficial respondents) of the said conductor have filed I.D.No.184 of 2001 under Section 2(A) (2) of the Industrial Disputes Act, 1947 (for short 'the Act'). The Tribunal vide order dated 09.12.2002, allowed the I.D. directing the petitioners to pay 5 years gross salary of the deceased as

Additional monetary benefit to the legal representatives and to pay 30% of the gross salary of the deceased to the legal representatives during the period from 10.05.2000 till he was illegally removed from service on 07.02.2001. Challenging the same, the present writ petition is filed.

It has been contended by the petitioners that the orders of removal from service were issued against the conductor for the proven misconduct vide order dated 10.05.2000 and thereafter the said conductor has not challenged the same before the labour Court and it is only after his expiry, legal representatives had filed I.D. which is not maintainable. If the ID was filed by the deceased conductor, then the legal representatives of the deceased conductor can come on record. But the legal representatives independently cannot approach the Industrial Tribunal after expiry of the conductor. The labour Court has erroneously granted 5 years gross salary as additional monetary benefits to the legal representatives. It is further contended that the unofficial respondents are also seeking additional monetary benefit for denying the compassionate appointment. The subject of compassionate appointment and its denial and payment of additional monetary benefits would not come within the purview of Section 2 (A) (2) of the Act.

Learned counsel appearing for the unofficial respondents had contended that the labour Court had rightly pass orders in their favour and petitioners have deposited an amount of Rs.1,16,000/- in pursuance to the interim orders passed by this

Court and the unofficial respondents were also permitted to withdraw the said amount. Accordingly, the unofficial respondents have withdrawn the said amount. No grave illegality or irregularity is pointed out by the petitioners to interfere with the orders passed by the labour Court.

This Court after considering the rival submissions of both the parties is of the considered view that the labour Court erred in directing the petitioners to pay 5 years gross salary of the deceased conductor to the unofficial respondents as additional monetary benefits, that too entertaining an application under Section 2 (A) (2) of the Act. Hence, ends of justice would be met, if the amounts which were already paid by the petitioner Corporation to the unofficial respondents be not recovered from them as per the contention of the learned Standing counsel for the petitioner Corporation that unofficial respondents were entitled for additional monetary benefit in lieu of compassionate appointment. Therefore, the relief granted in favour of the unofficial respondents is restricted to the amount already paid by the petitioner Corporation i.e., Rs.1,16,000/-.

With the above observations, the Writ Petition is disposed of. There shall be no order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.

ABHINAND KUMAR SHAVILI,J

Dt: 22.11.2018
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