

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.5589 OF 2001

ORDER:

1. This writ petition is filed seeking to issue a writ of Certiorari calling for the records relating to and connected with the award dated 9.6.2000 in I.D.No.34 of 1996 on the file of the Industrial Tribunal-cum-Labour Court, Godavarikhani, Karimnagar District, and to set aside the same.

2. Heard Sri A. Ravi Babu, learned Standing Counsel for T.S.R.T.C. None appeared for the 1st respondent.

3. It has been submitted by the petitioner that the 1st respondent was appointed as conductor in the petitioner-Corporation on 28.8.1985 and while he was working at Godavarikhani bus depot, he remained unauthorizedly absent from duty during the period from 12.8.1991 to 19.8.1991, and the petitioner having considered the said absence as misconduct, issued a charge memo on 20.8.1991, for which the 1st respondent submitted his explanation, and being not satisfied with the same, the petitioner appointed enquiry officer and after conducting a detailed enquiry, the petitioner removed the 1st respondent from service on 24.8.1992 for his proven misconduct in the enquiry. It has been further submitted that against the removal order, the 1st respondent preferred an appeal to the appellate authority, and the appellate authority rejected the appeal on 11.12.1992 and then, the 1st respondent filed I.D. before the 2nd respondent-Industrial Tribunal-cum-Labour Court by filing I.D.No.34 of 1996 under Section 2-A(2) of the Industrial Disputes Act, and the learned Tribunal passed the award by setting aside the order of removal of the 1st respondent on the ground that the punishment is disproportionate to the

charges levelled against the 1st respondent, and directing the petitioner herein to reinstate the 1st respondent herein into service with full backwages and continuity of service.

4. The learned Standing Counsel appearing for the petitioner vehemently contended that the Labour Court has not followed the procedure as contemplated under Section 11-A of the Industrial Disputes Act and the Labour Court has mechanically passed the award in favour of the 1st respondent. The learned Standing Counsel further contended that the petitioner removed the 1st respondent only based on the enquiry report, wherein the charge levelled against the 1st respondent was held as proved. He further contended that in pursuance of the orders passed by the Labour Court, the 1st respondent was reinstated into service and he retired from service on attaining the age of superannuation. He further contended that the 1st respondent approached the Labour Court four years after dismissal of the appeal and the Labour Court ought not to have entertained the I.D. and the Labour Court ought to have dismissed the I.D. on the ground of delay and laches.

5. Insofar as the contention raised by the learned Standing Counsel for the petitioner in respect of delay and laches is concerned, this Court is of the view that there is no limitation for approaching the Labour Court under Section 2-A (2) of the Industrial Disputes Act, and that within a reasonable period of time, one can approach the Labour Court. The 1st respondent being class III employee might have taken some considerable time to understand the law and take legal course of action. Taking into account the totality of the circumstances and the fact that the 1st respondent was removed from service, this Court is of the view that the delay of four years in approaching the Labour Court is condonable and the same cannot

be put against the 1st respondent. Hence, the contention raised by the learned Standing Counsel that there is delay and laches in approaching the Labour Court cannot be sustained.

6. Having regard to the other submissions made by the learned Standing Counsel, this Court is of the view that the Labour Court has rightly exercised its jurisdiction under Section 11-A of the Industrial Disputes Act and set aside the order of removal on the ground of proportionality. The Labour Court taking into account the fact that the 1st respondent was absent only for a period of six days, observed that the imposition of removal from service for absence of six days was disproportionate to the charge levelled against the 1st respondent. The order of the Tribunal does not suffer from any illegality or irregularity. There are no merits in this writ petition.

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

(ABHINAND KUMAR SHAVILI, J)

Dated: 15th June, 2018
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