

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 19909 of 2002

ORDER:

This writ petition is filed seeking a writ of certiorari calling for the records in connection with I.D.No.134 of 1999 on the file of the Industrial Tribunal-cum-Labour Court, Anantapur and quash the award dated 30.03.2002 passed therein, holding it as illegal and arbitrary.

Heard learned counsel for petitioner and learned Standing Counsel for the respondent corporation.

It has been contended by the petitioner that he was appointed as Driver in the respondent Corporation. While so, he was issued with a charge sheet on the allegation that he was absent from duty unauthorisedly. The respondent corporation construed his conduct as misconduct and after initiating disciplinary proceedings and after conducting a regular enquiry, the disciplinary authority imposed on him punishment of removal from service vide orders dated 18.08.1998. Challenging the said orders, he unsuccessfully preferred an appeal and thereafter filed I.D.No.134 of 1999 on the file of the Industrial Tribunal-cum-Labour Court, Anantapur under Section 2-A(2) of Industrial Disputes Act, 1947. By award dated 30.03.2002, the Labour Court set aside the orders of removal and directed reinstatement of the petitioner as fresh driver and imposed punishment of deferment of five annual increments with cumulative effect.

Challenging the same, he filed the present writ petition only to the extent of withholding of five increments with cumulative effect and denial of continuity of service, back wages and attendant benefits.

Learned counsel for the petitioner contended that the Labour Court cannot impose alternative punishment of withholding of five annual increments with cumulative effect while setting aside the orders of removal and further contended that the petitioner is also entitled for continuity of service, back-wages and attendant benefits.

Learned Standing Counsel for the respondent Corporation contended that the Labour Court had rightly modified the major punishment of removal to that of reinstatement of the petitioner into service as fresh recruit and withholding of five increments with cumulative effect and, therefore, no interference is called for from this Court.

Having considered the rival contentions of the parties, this Court is of the considered view that the while setting aside the orders of removal, the Labour Court ought not to have imposed the punishment of withholding of five increments with cumulative effect. Therefore, ends of justice would be met if the order of the Labour Court to the extent of withholding of five increments with cumulative effect is modified to that of without cumulative effect.

In view of the above, the Writ Petition is partly allowed and the order of the Labour Court to the extent of withholding of five

increments with cumulative effect is modified to that of without cumulative effect and the respondent Corporation is directed to grant notional benefits to the petitioner without any monetary benefits.

Consequently, miscellaneous petitions, if any, pending in the writ petition shall stand closed. No order as to costs.

ABHINAND KUMAR SHAVILI, J

14th December, 2018
cbs



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(partly allowed)

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