HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.8264 OF 2004

ORDER

This writ petition is filed seeking the following relief:

> **"…to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the Award passed in I.D.No.18/1999, dated 30-03-2002 which was published in Notice Board on 25.07.2002 in G.O.Rt.No.1141, dated 25.04.2002 as illegal, arbitrary in so far the denial of back wages and also directing the respondent to defer 3 annual increments with cumulative effect (a major penalty) to the petitioner and to pay a fine of Rs.1500/- by the petitioner and consequently set aside the same by awarding back wages with continuity of service with all the consequential benefits and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."**

Heard Sri T.V.S.Kumar, learned counsel appearing for the petitioner, Sri P.Vinayaka Swamy, learned Standing Counsel appearing for the respondent-Corporation and learned Government Pleader for Labour appearing for the 2nd respondent.

It is the case of the petitioner that he was appointed as Conductor in the respondent-Corporation in the year 1989 and was discharging his duties as such. While so, due to his ill health, he absented to duties from 8.6.1993 to 18.7.1993. His conduct was construed as misconduct and after initiating disciplinary proceedings and after conducting regular enquiry

and for the proven misconduct, the disciplinary authority had passed the termination order dated 4.8.1994. The appeal and review preferred by the petitioner were rejected. Challenging the same, the petitioner filed I.D.No.18 of 1999 before the Industrial Tribunal-cum-Labour Court, Anantapur. The Labour Court passed Award on 30-3-2002 by setting aside the termination order and directing the Corporation to reinstate the petitioner into service afresh and imposed the punishment of deferment of annual increments for a period of three years with cumulative effect besides penalty of Rs.1500/-. Challenging the same, the present writ petition is filed.

Learned counsel appearing for the petitioner contends that while setting aside the termination order, the Labour Court ought to have granted continuity of service for the purpose of terminal benefits, without monetary benefits.

Learned Standing Counsel appearing for the respondent-Corporation contends that the Labour Court has rightly passed the impugned Award and no interference is called for from this Court.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that the Labour Court failed to appreciate the fact that no other allegations were levelled against the petitioner in his

entire career, and therefore, it ought to have interfered with the punishment on the proportionality theory in exercise of its powers under Section 11-A of the Industrial Disputes Act, 1947, and granted continuity of service atleast for the purpose of terminal benefits, without monetary benefits.

Accordingly, the Writ Petition is disposed of directing the respondent-Corporation to treat the reinstatement of the petitioner into service as Conductor afresh with continuity of service for the purpose of terminal benefits, without monetary benefits. In all other aspects, rest of the Award is confirmed. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

24th December, 2018
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HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
सत्यमेव जयते