

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 31065 of 2010

O R D E R:

This present writ petition is filed seeking to issue a writ of *Mandamus* declaring the action of respondent No.2 in issuing the impugned proceedings dated 13.10.2008, removing the petitioner from service, as illegal and arbitrary.

2. Petitioner-workman initially appointed as Conductor in respondent No.2-Corporation in the year 1988 and thereafter, his services were regularized. While so, certain irregularities were found against the petitioner and respondent No.2 issued charge sheet against him on 18.10.2003 by framing five charges. Basing on the enquiry report, respondent No.2-Corporation removed the petitioner from service on 10.05.2004. Aggrieved by the same, petitioner preferred ID No.252 of 2004 before respondent No.1 and the same was dismissed by impugned order dated 13.10.2008. Hence, this writ petition.

3. Heard learned counsel for petitioner and the learned Standing Counsel for respondent No.2-Corporation and perused the material on record.

4. Learned counsel for petitioner would submit that the punishment imposed on petitioner-workman is disproportionate to the proven

misconduct and that the tribunal by applying proportionality theory, ought to have reinstated the petitioner.

5. On the other hand, learned Standing Counsel for respondent No.2-Corporation would contend that respondent No.2-Corporation, had imposed punishment of removal from service of the petitioner for the proven misconduct and the labour court had rightly rejected his case. Hence, there are no grounds to interfere with the order impugned.

6. Having heard the rival contentions of both the counsel, this court is of the considered view that ends of justice would be met, if proportionality theory is applied and respondents are directed to reinstate the petitioner as a fresh Conductor without continuity of service, back wages and other attendant benefits.

7. With the above observations, the writ petition is disposed of. No costs.

8. Miscellaneous Petitions, if any, pending in this writ Petition shall stand closed.

ABHINAND KUMAR SHAVILI, J

04th October, 2018
Mjl/*