

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.25668 OF 2006

ORDER:

1. This writ petition is filed seeking to issue a writ of Certiorari calling for the records relating to and connected with I.D.No.49 of 2003 on the file of the 3rd respondent-Labour Court and to quash the award dated 4.7.2005 passed therein by holding it as illegal and arbitrary, and consequently, to direct respondents Nos.1 and 2 to reinstate the petitioner into service with continuity of service, back wages and all consequential service benefits.

2. Heard Sri P. Venkateswara Rao, learned Counsel for the petitioner and Sri N. Vasudeva Reddy, learned Standing Counsel for respondents Nos.1 and 2.

3. It is the case of the petitioner that he was appointed as a conductor on 14.8.1991 and while he was discharging his duties during 2001, the checking officials of the respondent-Corporation conducted check and alleged that he indulged in cash and ticket irregularities. The respondent-Corporation construing the said act as misconduct initiated disciplinary proceedings against the petitioner. After conducting enquiry, the disciplinary authority imposed punishment of removal from service on the petitioner vide proceedings dated 28.5.2001.

Aggrieved by the same, the petitioner filed appeal and the said appeal was rejected on 21.11.2001 and hence, he filed review and the said review was also rejected on 17.10.2002. Thereafter, the petitioner filed I.D.No.49 of 2003 under Section 2-A(2) of the Industrial Disputes Act before the Labour Court. But the Labour Court dismissed the I.D. Challenging the same, the present writ petition is filed.

4. Learned Counsel for the petitioner contended that during entire service career of the petitioner, this is the lone allegation against the petitioner and the petitioner has not indulged in any misappropriation, but the Labour Court has mechanically dismissed the I.D. filed by the petitioner, without considering his case and without applying proportionality theory, and therefore, the award passed by the Labour Court is liable to be set aside and the petitioner may be directed to be reinstated into service.

5. Learned Standing Counsel for the respondent-Corporation contended that the disciplinary authority imposed punishment of removal for the proven misconduct in the enquiry and the Labour Court has rightly dismissed the I.D., and there are no merits in this writ petition.

6. This Court having considered the submissions made by the parties and the nature of the charges levelled against the petitioner, is of the considered view that the punishment of

removal imposed by the respondent-Corporation is very disproportionate and the Labour Court ought to have examined the case of the petitioner taking into consideration the fact that this is the only incident in the entire career of the petitioner, and it ought to have interfered with the punishment of removal by applying the proportionality theory and at least, the Labour Court ought to have directed the respondent-Corporation to reinstate the petitioner into service as fresh conductor. Since the punishment of removal is shockingly disproportionate to the charges leveled against the petitioner, this Court feels that ends of justice would be met if the respondent-Corporation is directed to reinstate the petitioner into service as fresh conductor.

7. Accordingly, the Writ Petition is disposed of directing the respondent-Corporation to reinstate the petitioner into service as fresh conductor, subject to medical fitness, without continuity of service, without back wages and other attendant benefits. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

Dated: 7th September, 2018.
Nn.

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI



Nn