

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.28880 OF 2010

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.148 of 2000 on the file of the 2nd respondent-Labour Court, Anantapur, and to quash the award dated 16.12.2002 passed therein, and consequently, to direct the respondent-Corporation to reinstate the petitioner into service with all other benefits.

2. Heard Sri V. Narasimha Goud, learned Counsel for the petitioner and Sri A. Rama Rao, learned Standing Counsel for the respondent-corporation.

3. It is the case of the petitioner that he was appointed as conductor in the year 1987 in the respondent-Corporation and since then, he has been discharging his duties and during November, 1996, it was alleged that the petitioner had indulged in cash and ticket irregularities. The respondent-Corporation construed the said irregularities as misconduct and conducted enquiry. For the proven misconduct in the enquiry, the disciplinary authority imposed punishment of removal vide order dated 5.5.1997, and thereafter, the petitioner has unsuccessfully preferred appeal and review. Thereafter, he

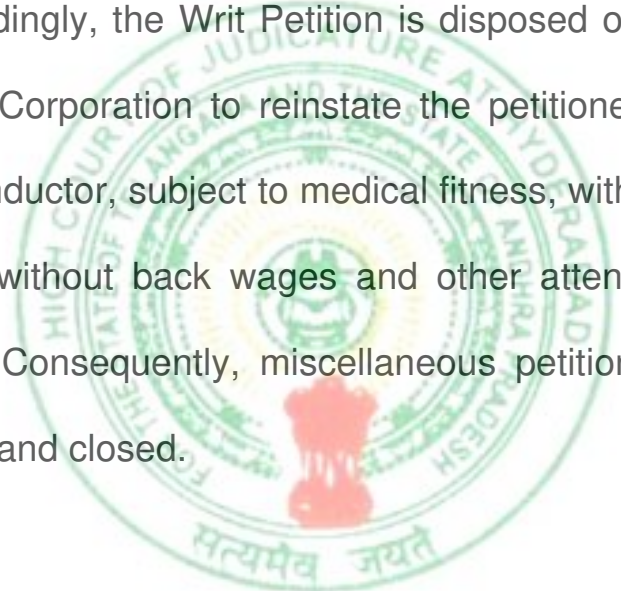
filed I.D.No.148 of 2000 before the 2nd respondent-Labour Court under Section 2-A(2) of the Industrial Disputes Act. The Labour Court vide order dated 16.12.2002 dismissed the I.D. Challenging the same, the present writ petition is filed.

4. Learned Counsel for the petitioner contended that the Labour Court has not appreciated any of the contentions raised by the petitioner and it has mechanically dismissed the case of the petitioner. He further contended that the Labour Court ought to have examined the case of the petitioner by applying proportionality theory and it ought to have come to a conclusion that the punishment is shockingly disproportionate to the charges leveled against the petitioner. Further, he contended that since the Labour Court has not properly appreciated the case of the petitioner, atleast his case may be considered for fresh appointment.

5. The learned Standing Counsel for the respondent-Corporation contended that the Labour Court rightly dismissed the I.D. filed by the petitioner and that the disciplinary authority imposed punishment of removal only for the proven misconduct in the enquiry and that there is no illegality or irregularity in the award passed by the labour Court, and further, the petitioner could not point out any illegality or irregularity in the award impugned and therefore, this Court cannot interfere with the award impugned.

6. This Court having considered the rival submissions made by the parties, is of the view that the Labour Court ought to have examined the case of the petitioner by applying the proportionality theory **viz., *Wednesbury*** principle and it ought to have atleast ordered fresh appointment. Ends of justice would be met if a direction is given to the respondent-Corporation to reinstate the petitioner into service as fresh conductor, subject to medical fitness.

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:24th October, 2018.
Nn.

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

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Nn.