

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 27737 of 2009

ORDER:

This writ petition is filed seeking to issue a writ of Certiorari calling for the records relating to and connected with I.D.No.273 of 2005 on the file of the Industrial Tribunal-cum-Labour Court and to quash the order dated 19.08.2009 passed therein, by holding it as illegal and arbitrary, and to direct the respondent to reinstate the petitioner into service with continuity of service and all other benefits including full back wages.

2. Heard Sri V. Narasimha Goud, learned Counsel for the petitioner and Smt. W.V.S.Rajeswari, learned Standing Counsel for the respondent-Corporation.

3. It is the case of the petitioner that he was appointed as conductor in the respondent corporation on 02.12.1999 and while he was discharging his duties on 29.05.2005 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, and after conducting enquiry, imposed punishment of removal from service on him on 09.11.2005. Aggrieved by the same, he filed I.D.No.273 of 2005 before the Industrial Tribunal-cum-Labour Court under Section 2-A(2) of the Industrial Disputes Act, 1947. But the Labour Court dismissed the

I.D. vide order dated 19.08.2009. Challenging the same, the present writ petition is filed.

4. Learned Counsel for the petitioner submitted that except the incident in question, there are no such other incidents in the entire service career of the petitioner and that the punishment of removal is very disproportionate and that the Labour Court ought to have applied proportionality theory and interfered with the punishment of removal, but the Labour Court has erroneously dismissed the I.D.

5. Learned Standing Counsel for the respondent-Corporation contended that the disciplinary authority imposed punishment of removal for the proven misconduct and the Labour Court has rightly dismissed the I.D., and therefore, the order impugned does not warrant any interference.

6. This Court having considered the submissions made by the parties and the gravity 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 and 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, 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 subject to medical fitness, as a fresh conductor, without continuity of service, back wages and other attendant benefits. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

27th November, 2018
cbs



HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI



Writ Petition No. 27737 of 2009
(disposed of)

27th November, 2018

cbs