

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 18375 OF 2003

ORDER :

This writ petition is filed seeking to issue a writ of certiorari or any appropriate writ to quash the Award of the 1st respondent in I.D.No.96/1999 dated 2-9-2002 published on 20-1-2003 and sought a consequential direction to the Respondents 2 and 3 to reinstate the petitioner with back wages and other benefits.

2. Heard the learned Standing Counsel for the respondent-Corporation and the learned Counsel for the petitioner.

3. It is the case of the petitioner that he was appointed as conductor on 5-2-1997. He was placed under suspension on 16-3-1998. He was charged with allegations that he has collected an amount of Rs.50/- from a batch of 3 passengers who boarded the Bus at Nellore and found alighting at Vinjamur Ex.stages 1 to 17 and issued lower denominations tickets, and also that he failed to open the door for a couple of minutes to the checking officials. He was conducting the Bus on the route Nellore to Udaigiri on 26-2-1998 and he was charge sheet in respect of his performance of duty on that day. Later, he was removed from service with effect from 1-7-1998. His Appeal as well as Review Petition was rejected by the authorities on 23-11-1998 and 13-5-1999 respectively. The respondent-Corporation, construing the said act as misconduct, imitated disciplinary proceedings against the petitioner, and after conducting enquiry, imposed punishment of removal from service on the petitioner.

Aggrieved by the same, the petitioner filed I.D.No.96 of 1999 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 submitted 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 award passed does not warrant any interference.

6. This Court, having considered the submissions made by the parties and nature of the charges leveled 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 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.

ABHINAND KUMAR SHAVILI, J

20th November, 2018

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