

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.6450 OF 2007

ORDER

This writ petition is filed seeking to issue a Writ of Certiorari calling for the records relating to and connected with the Award dated 15.12.2006 passed in I.D.No.90 of 2005 by the Labour Court-III, Hyderabad, and to quash or set aside the same by holding it as arbitrary and illegal and consequently to direct the respondents to reinstate the petitioner into service.

Heard Sri P.Venkateswara Rao, learned counsel appearing for the petitioner, and Sri B.Mayur Reddy, learned Standing Counsel appearing for the 1st respondent-Corporation.

It is the case of the petitioner that he was appointed as a Conductor in the respondent-Corporation on 26.01.2002, on compassionate grounds. While so, the officials of the respondent-Corporation exercised a check on 30.05.2004 and found that the petitioner had indulged in cash and ticket irregularities. This incident was construed as a misconduct, the respondent-Corporation initiated disciplinary proceedings and after conducting regular departmental enquiry, imposed the punishment of removal from service for the proven

misconduct *vide* proceedings dated 20.10.2004. The appeal and review preferred by the petitioner were rejected on 02.11.2004 and on 20.06.2005 respectively. Challenging the same, the petitioner preferred I.D.No.90 of 2005 under Section 2-A of the Industrial Disputes Act, 1947 (for short 'the Act') before the Labour Court-III, Hyderabad. The Labour Court, without considering the contentions raised by the petitioner, dismissed the said I.D. Hence, the present writ petition.

Learned counsel appearing for the petitioner submits that in the entire career of the petitioner, except the present charge, no other allegations were levelled against him. He further submits that the Labour Court ought to have exercised its power under Section 11-A of the Act and granted relief to the petitioner based on the proportionality theory and atleast ought to have reinstated him into service as Conductor afresh.

Learned Standing Counsel appearing for the respondent-Corporation submits that the disciplinary authority has rightly imposed the punishment of removal for the proven misconduct only and the Labour Court had also rightly dismissed the I.D without granting any relief and therefore, no interference is called for from this Court.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered

view that except the present charge, no other allegations were levelled against the petitioner in his entire career, the Labour Court ought to have interfered with the punishment atleast on the proportionality theory and granted relief to him. Therefore, ends of justice would be met if a direction is given to the respondent-Corporation to consider the case of the petitioner for reinstatement into service as Conductor afresh.

Accordingly, the Writ Petition is disposed of directing the respondent-Corporation to consider the case of the petitioner for reinstatement into service as Conductor afresh without continuity of service, without back wages, and attendant benefits, subject to his medical fitness and pass appropriate orders as expeditiously as possible. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

20th September, 2018
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