

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILU

WRIT PETITION No.2869 of 2007

ORDER:

This writ petition is filed seeking the following relief:

“It is therefore prayed that the Hon'ble Court may be pleased to issue an order direction or writ particularly one in the nature of writ of Certiorari or any other appropriate writ quash the award dated 5.7.2006 in I.D.No.17 of 2005 on the file of Labour Court III, Hyderabad and consequently direct the petitioner to reinstate the petitioner into service with all consequential benefits and pass such other order or orders as the Hon'ble court deems fit and proper in the circumstances of the case.

Heard Sri G,Vidyasagar, learned counsel for the petitioner and the learned standing counsel for the respondent Corporation.

It has been contended by the petitioner that he was initially appointed as conductor in the year 1990 in the respondent Corporation. While he was discharging his duties on 12.11.2003, the checking officials of the respondent corporation had conducted a check and found that the petitioner had indulged in cash and ticket irregularities and the said act of the petitioner was construed as misconduct and after conducting a regular departmental enquiry, the disciplinary authority had imposed punishment of removal from service on the petitioner for the proven misconduct vide proceedings dated 17.4.2004. The appeal preferred by the petitioner was also rejected. Aggrieved by the same, the petitioner had preferred I.D.No.17 of 2005 on the file of the 1st respondent-Labour Court-III. The 1st respondent-Labour Court vide orders dated

5.7.2006 had dismissed the I.D. preferred by the petitioner. Challenging the same, the present writ petition is filed.

It is contended by the learned counsel for the petitioner that the 1st respondent-Labour Court had not exercised its powers under Section 11-A of the Industrial Disputes Act and the proportionality theory was not applied. Learned counsel for the petitioner further contended that the 1st respondent-Labour Court had failed to appreciate that the punishment of removal is shockingly disproportionate to the charges leveled against the petitioner.

Learned standing counsel had contended that the 1st respondent-Labour Court has rightly rejected the claim of the petitioner and the disciplinary authority had imposed the punishment of removal for the proven misconduct and no illegality has been committed by the disciplinary authority and the writ petition is liable to be dismissed.

This Court having considered the submissions made by both the parties is of the considered view that the 1st respondent-Labour court ought to have applied the theory of proportionality and interfered with the punishment of removal and the punishment imposed on the petitioner is shockingly disproportionate to the charges leveled against him. Therefore, ends of justice would be met, if the petitioner is directed to be reinstated into service as a fresh conductor without any back wages and continuity of service.

Accordingly, the Writ Petition is disposed of directing the respondent corporation to reinstate the petitioner into service as a fresh conductor without any back wages and continuity of service. It is needless to say that the case of the petitioner will be considered

for fresh appointment subject to medical fitness. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVIL, J

Date: 17/09/2018
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