

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.2099 of 2004

ORDER:

This writ petition is filed seeking to issue a writ of Certiorari calling for the records connected with I.D.No.40 of 1997 on the file of the Industrial Tribunal-cum-Labour Court, Godavarikhani and quash the award dated 7.9.2000 (published in G.O.Rt.No.2232 LETF (LAB.I) Department, dated 9.11.2000) passed therein and consequently to direct the respondent to reinstate the petitioner with continuity of service, attendant benefits including back wages.

Heard Sri P.Govindarajulu, learned counsel for the petitioner and Sri A.Ravi Babu, learned standing counsel for the respondent Corporation.

It has been contended by the petitioner that he was initially appointed as Conductor in the year 1989. While he was discharging his duties during July, 1996, the checking officials of the respondent corporation had conducted a surprise check and found that the petitioner had indulged in cash and ticket irregularities and the said act of the petitioner was construed as misconduct. Disciplinary proceedings were initiated against the petitioner and after conducting a detailed enquiry, the disciplinary authority had imposed a punishment of removal from service on 16.12.1996. The appeal preferred by petitioner was also dismissed. Thereafter, the petitioner filed I.D.No.40 of 1997 before the Industrial Tribunal-cum-

Labour Court, Godavarikhani. The Tribunal, vide orders dated 7.9.2000 passed orders dismissing the I.D. preferred by the petitioner. Challenging the same, the present writ petition is filed.

It has been contended by the learned counsel for the petitioner that at the time of checking, nearly 125 passengers were traveling in the bus. Out of 125 passengers, nearly 88 were school children including three teachers and the petitioner was counting number of children so as to issue tickets to them and at that time the bus reached stage no.6 and the checking officials have checked the bus and found that the petitioner had not issued tickets to the small children. Learned counsel for the petitioner further contended that the Tribunal ought to have exercised its power under Section 11-A of the Industrial Disputes Act and considered the case of the petitioner by applying the Wednesbury Theory and interfered with the punishment of removal.

Learned standing counsel for the respondent corporation had contended that the disciplinary authority had rightly imposed the punishment of removal for the proven misconduct and the Industrial Tribunal had rightly rejected the case of the petitioner and therefore, no interference is called for.

Considering the submissions made by both the parties, this Court is of the view that the Tribunal while deciding the case of the petitioner ought to have applied the proportionality theory and interfered with the punishment of removal as the punishment of removal is shockingly disproportionate to the charges leveled against the petitioner. Therefore, ends of justice would be met, if the petitioner is directed to be reinstated into service with continuity of

service for the purpose of terminal benefits without any monetary benefits and without back wages.

Accordingly, the Writ Petition is disposed of directing the respondent Corporation to reinstate the petitioner into service with continuity of service for the purpose of terminal benefits without any monetary benefits and without back wages. 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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