

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.25746 OF 2006

ORDER:

This writ petition is filed under Article 226 of the Constitution of India, seeking to issue writ of mandamus setting aside the impugned award, dated 06.10.2004 in I.D.No.8 of 2003 passed by the Labour Court-II, Hyderabad, by declaring it as illegal and arbitrary.

2. Heard Mr.N.Vasudeva Reddy, learned standing counsel for petitioners-corporation and Sri V.Narasimha Gowd, learned counsel for the respondent.

3. It has been contended by the learned counsel for the petitioners that the respondent was engaged as casual driver during 1992 and he had unauthorizedly absented himself and the said conduct of the respondent was construed as misconduct and the disciplinary authority after conducting detailed enquiry, imposed punishment of removal from service for the proved misconduct on 29.12.2000. Thereafter, the respondent was unsuccessful in the appeal and review. Thereafter, he filed I.D.No.8 of 2003 before the Labour Court and the Labour Court had erroneously passed orders in favour of the respondent on 06.10.2004 and directed the petitioners herein to reinstate the respondent into service with full back wages, continuity of service and other attendant charges. Challenging the same, the present writ petition is filed.

4. It has been contended by the learned counsel for the petitioners that the disciplinary authority had imposed punishment of removal of the respondent for the proved misconduct in the enquiry and no illegality has been committed, but the Labour Court without considering the

contentions raised, had passed the orders in favour of the respondent mechanically.

5. Learned counsel for the respondent contended that the Labour Court had rightly passed the orders in favour of the respondent in exercise of power under Section 11-A of Industrial Disputes Act, 1947 and no illegality or irregularity has been committed by the Labour Court in passing the orders and the writ petition deserves to be dismissed.

6. This Court having considered the rival contentions made by both parties, is of the considered view that the Labour Court has rightly set aside the orders of removal. But, however, while granting relief, the Labour Court had exceeded its power of granting full back wages. Therefore, this Court feels that ends of justice would be met if full back wages are reduced to that of 75% of the back wages so as to protect the interest of the petitioners-corporation. Therefore, the order passed in I.D.No.8 of 2003, dated 06.10.2004 is modified only in respect of granting full back wages to that of 75% of back wages and the rest of the award is confirmed. It is needless to say that the petitioners shall pay 75% of back wages to the respondent within 4 weeks from the date of receipt of a copy of this order.

7. With the above observation, the writ petition is disposed of. No order as to costs. Miscellaneous petitions, if any pending in this writ petition shall stand closed.

ABHINAND KUMAR SHAVILI, J

DATED: 10-10-2018

Hsd

