

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.6226 OF 2003

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 18-11-2002 passed in I.D.No.48 of 2001 by the Industrial Tribunal-cum-Labour Court, Ananthapur, and to quash or set aside the same by holding it as arbitrary and illegal and consequently to direct the respondent-Corporation to reinstate the petitioner into service with continuity of service, attendant benefits and back wages.

Heard Sri G.Ravi Mohan, learned counsel appearing for the petitioner and Sri A.Rama Rao, learned Standing Counsel appearing for the respondent-Corporation.

It is the case of the petitioner that initially, he was appointed as Conductor in the respondent-Corporation in the year 1995. While discharging his duties as such, on 19-04-1998, the checking officials exercised a check and found that the petitioner had indulged in cash and ticket irregularities. This incident was construed as misconduct, the respondent-Corporation after conducting regular departmental enquiry and for the proven misconduct, removed the petitioner from service on 29-08-1998. Aggrieved by the same, the petitioner

had preferred an appeal before the appellate authority and the same was rejected without assigning any reasons. Challenging the same, the petitioner raised I.D.No.48 of 2001 before the Industrial Tribunal-cum-Labour Court, Ananthapur. The Labour Court *vide* Award dated 18-11-2002 declined to grant any relief to the petitioner and dismissed the said I.D. Hence, the present writ petition is filed.

Learned Standing Counsel appearing for the respondent-Corporation submits that the disciplinary authority had rightly imposed the punishment against the petitioner for the proven misconduct; that the Labour Court had rightly passed the Award, and no interference is called for and that the writ petition is liable to be dismissed.

This Court is of the considered view that the Labour Court ought to have considered the case of the petitioner, and atleast granted the relief of appointment afresh to him by applying the proportionality theory. Hence, ends of justice would be met if a direction is given to the respondent-Corporation to consider the case of the petitioner for appointment afresh without continuity of service, back wages and attendant benefits.

Accordingly, the Writ Petition is disposed of directing the respondent-Corporation to consider the case of the

petitioner for appointment afresh without continuity of service, back wages and attendant benefits, subject to his medical fitness. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

4th September, 2018
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