

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.22935 OF 2004

ORDER:

This writ petition is filed seeking to issue a writ of Certiorari calling for the records relating to and connected with I.D.No.20 of 2003 on the file of the Labour Court, Godavarikhani, and to quash the award dated 27.08.2003 passed therein, by holding it as illegal and arbitrary.

2. Heard Mrs. Satwath Rana, learned counsel for the petitioner, learned Government Pleader for Labour appearing on behalf of respondent No.1 and Ms. D. Radhika, learned standing counsel for the respondent No.2 - Corporation.

3. It is the case of the petitioner that he was appointed as Conductor on 01.04.1985 and on 05/06.07.2001 while he was discharging his duties on the back route of Hyderabad to Metpally at about 00.30 hours, when the bus reached Jubilee Bus Station, the On-duty Controller detained him at his room when he went for signing the control chart. Subsequently, it was made known to him that the passenger suspected the service driver was intoxicated and awaiting for the arrival of the service driver. The petitioner was not allowed to move from the control room till 2.00 p.m. on 06.07.2001 and finally he was allowed to go to his head-quarters i.e., Metpally Depot. Respondent No.2 placed him under suspension and issued charge sheet, dated 24.09.2001, levelling the following charges:

“1. For having under influence of liquor while you were conducting the hitech service No.AP10Z-7424 on route Hyderabad to Metpally on 5/6-7-2001 which constitutes misconduct under Reg.No.9 (ix) of APSRTC (CCA) Reg.1967.

2. For having absconded from your duty on 5/6-7-2001 leaving hitech service No.AP10Z-7424 at Picket Bus Station in the middle while conducting on the route Hyderabad to Metpally which constitutes mis-conduct under Reg.28 (xxvii) of A.P.S.R.T.C. Employees (Conduct) Reg.1963.”

4. The respondent No.2 - Corporation, construing the said act as misconduct, initiated disciplinary proceedings against the petitioner, and after conducting enquiry, imposed punishment of removal from service on the petitioner on 26.06.2002. Thereafter, the petitioner preferred an appeal and review, but he was unsuccessful and, thereafter, he filed I.D.No.20 of 2003 before the Labour Court, Godavarikhani. But, the Labour Court dismissed the I.D. confirming the removal by its Award, dated 27.08.2003. Challenging the same, the present writ petition is filed.

5. Learned counsel for the petitioner submitted that the punishment of removal is very disproportionate and that the Labour Court ought to have applied proportionality theory and interfered with the punishment of removal, but the Labour Court has erroneously dismissed the I.D.

6. Learned Standing Counsel for respondent No.2 - Corporation contended that the disciplinary authority imposed punishment of removal for the proven misconduct and the Labour Court has rightly dismissed the I.D., and therefore, the award impugned does not warrant any interference.

7. This Court, having considered the submissions made by the parties and the nature of the charges levelled against the petitioner, is of the considered view that the punishment of removal imposed by respondent No.2 - Corporation is very disproportionate and the Labour Court ought to have examined the case of the petitioner and interfered with the punishment of removal by applying the proportionality theory and at least, the Labour Court ought to have directed respondent No.2 - Corporation to reinstate the petitioner into service as fresh conductor. Since the punishment of removal is shockingly disproportionate, this Court feels that ends of justice would be met, if respondent No.2 - Corporation is directed to reinstate the petitioner into service as fresh conductor.

8. Accordingly, the Writ Petition is disposed of directing respondent No.2 - Corporation to reinstate the petitioner into service as fresh conductor, subject to medical fitness, without continuity of service, without back wages and other attendant benefits. However, in the circumstances, there shall be no order as to costs.

As a sequel, Miscellaneous Petitions, if any, pending in the writ petition shall stand closed.

ABHINAND KUMAR SHAVILI, J

December 15, 2018
Mgr

