

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.20591 OF 2011

ORDER:

1. This writ petition is filed seeking to issue a Writ of Certiorari calling for the records relating to and connected with I.D.No.105 of 2006 on the file of the Industrial Tribunal-cum-Labour Court, Ananthapur, and to quash the award dated 25.3.2008 passed therein only to the extent of denial of continuity of service.

2. Heard Sri S.M. Subhan, learned Counsel for the petitioner and Sri A. Rama Rao, learned Standing Counsel for the respondent-Corporation.

3. It has been submitted by the petitioner that he was appointed as a driver in the year 1996 and while he was discharging his duties, the officials of the respondent-Corporation verified his driving licence and alleged that it is a fake driving licence, and that the respondent-Corporation construed the said act as misconduct and initiated disciplinary proceedings against the petitioner, and after conducting enquiry, the respondent-Corporation removed the petitioner from service on 26.3.1998, and challenging the same, the petitioner unsuccessfully filed appeal and

revision before the authorities concerned, and thereafter, he filed I.D. No.105 of 2006 before the Labour Court under Section 2-A(2) of the Industrial Disputes Act. It has been further submitted by the petitioner that the Labour Court vide order dated 25.3.2008 partly allowed the I.D. directing the petitioner to approach the respondent-Corporation as per the circular dated 31.8.2000 within two months from the date of publication of the award with genuine valid driving licence, which is subject to verification by the respondent-Corporation, and directing the respondent-Corporation to appoint the petitioner as a fresh driver, and that the Labour Court further held that the petitioner is not entitled for any back wages. Aggrieved by the same, the present writ petition is filed.

4. Learned Counsel for the petitioner contended that the Labour Court ought to have exercised its jurisdiction under Section 11-A of the Industrial Disputes Act and it should have granted continuity of service atleast for the purpose of terminal benefits without any monetary benefits as the petitioner rendered service from 1996 to 1998 and that the Labour Court had not appreciated the said contention and

rejected the case of the petitioner to the extent of granting continuity of service for the purpose of terminal benefits.

5. Learned Standing Counsel for the respondent-Corporation contended that as per circular dated 11.8.2000, the respondent-Corporation had taken a policy decision to appoint the persons, who were earlier found to have obtained appointment by fake driving licence, as fresh drivers by giving one more chance, and when the circular itself makes it clear that the persons would be appointed as fresh drivers, the question of extending continuity of service would not arise.

6. This Court having considered the rival submissions made by the parties is of the considered view that the Labour Court ought to have considered the case of the petitioner to grant continuity of service atleast for the purpose of terminal benefits. The Labour Court has not exercised its power under Section 11-A of the Industrial Disputes Act by examining as to whether the petitioner is entitled for continuity of service, for the services which he rendered. Admittedly, the petitioner has rendered his services from 1996 till date of his removal i.e., for a period of two years. Therefore, the petitioner is entitled for

continuity of service, only for the purpose of terminal benefits.

7. Accordingly, the Writ Petition is disposed of directing the respondent-Corporation to grant continuity of service to the petitioner from 1996 till the date of his removal, only for the purpose of terminal benefits without any monetary benefits. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

Dated: 24.9.2018.
nn.



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24/09/2018

Nn.