

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.17278 OF 2009

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 06-04-2009 passed in I.D.No.124 of 2006 by the Industrial Tribunal-cum-Labour Court, Visakhapatnam, 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 S.V.Ramana, learned Standing Counsel appearing for the 2nd respondent-Corporation.

It is the case of the petitioner that initially, he was appointed as Conductor in the respondent-Corporation. While discharging his duties as such, on 21-04-2006, 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

12-07-2006. The appeal and review preferred by the petitioner were dismissed on 3.8.2006 & 24.10.2006 respectively. Challenging the same, the petitioner raised I.D.No.124 of 2006 before the 1st respondent-Industrial Tribunal-cum-Labour Court, Visakhapatnam. The Labour Court *vide* Award dated 06-04-2009 declined to grant any relief to the petitioner and dismissed the said I.D. Hence, the present writ petition is filed.

Learned counsel appearing for the petitioner submits that the Labour Court has erroneously dismissed the I.D. preferred by the petitioner; that the Labour Court ought to have interfered with the punishment of removal by applying the proportionality theory and atleast ought to have directed the respondent-Corporation to reinstate the petitioner into service as Conductor afresh, without continuity of service and back wages.

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; that no interference is called for from this Court and that the writ petition is liable to be dismissed.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that except the present charge, no other allegations were levelled against the petitioner in his entire career, the Labour Court ought to have interfered with the punishment atleast on the proportionality theory and ought to have considered the case of the petitioner, and granted the relief of reinstatement into service afresh.

Hence, ends of justice would be met if a direction is given to the respondent-Corporation to consider the case of the petitioner for reinstatement into service as Conductor 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 reinstatement into service as Conductor 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

