

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 20191 OF 2003

ORDER :

This writ petition is filed seeking the following relief:

“For the reasons set-out in the accompanying Affidavit, it is prayed that this Hon’ble Court may be pleased to call for the records from the 1st respondent and issue an appropriate Writ, Order or Direction, particularly one in the nature of Writ of Certiorari and quash the Award passed by the 1st respondent in I.D.No.6 of 2003, dated 23.6.2003, published on 6.9.2003, holding the same as illegal, unjust, contrary to law and perverse; and grant the relief of reinstatement with all other attendant benefits and back wages, and pass such other order or orders as deemed fit and proper under the circumstances of the case”.

Heard Sri A.K.Jayaprakash Rao, the learned Counsel for the petitioner and Smt. Dande Radhika, the learned Government Pleader.

It is the case of the petitioner that he was appointed as conductor on 26.10.1990 in the respondent corporation and while he was discharging his duties on 19.3.2001, the checking officials of the respondent-Corporation conducted checking and alleged that he indulged in cash and ticket irregularities. The respondent-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 16-8-2001. Aggrieved by the same, the petitioner filed I.D.No.6 of 2003 before the Labour Court. But the Labour Court dismissed the I.D. Challenging the same, the present writ petition is filed.

Learned Counsel for the petitioner submitted that except the incident in question, there are no such other incidents in the entire service career of the petitioner and 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.

Learned Standing Counsel for the respondent-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.

This Court, having considered the submissions made by the parties and the nature of the charges leveled against the petitioner, is of the considered view that the punishment of removal imposed by the respondent-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 the respondent-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 the respondent-Corporation is directed to reinstate the petitioner into service as fresh conductor.

Accordingly, the Writ Petition is disposed of directing the respondent-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. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

Dated:23.11.2018.

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