

HON' BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P. No. 25705 of 2003

ORDER:-

This writ petition is filed seeking to issue a writ of certiorari calling for the records relating to the Award dated 18.09.2003 in I.D.No. 93 of 2002 passed by the Industrial Tribunal-II, Hyderabad and quash the same by holding it as illegal and arbitrary. A consequently direction is sought to direct the 2nd respondent to grant reinstatement with continuity of service, attendant benefits and back-wages.

Heard Sri G. Ravi Mohan, learned counsel for the petitioner and Sri N.Vasudeva Reddy, learned Standing Counsel for A.P.S.R.T.C. appearing on behalf of the 2nd respondent and perused the material placed on record.

The brief facts of the case are that the petitioner was initially appointed as Conductor in the respondent – Corporation in 1986. While the petitioner was conducting bus in May, 1999, checking officials of the Corporation conducted sudden check and found that the petitioner had indulged in cash and ticket irregularities. The respondent – Corporation construed the petitioner's conduct as misconduct and framed certain charges against him. After conducting a detailed enquiry, the disciplinary authority, by proceedings dated 23.08.1999, imposed punishment of removal from service for

the proven misconduct. Subsequently, the petitioner unsuccessfully preferred an appeal and review. Later, he filed I.D.No. 93 of 2002 under Section 2A(2) of the Industrial Disputes Act, 1947, and the Labour Court, by Award dated 18.09.2003, dismissed the I.D. Challenging the same, the present writ petition is filed.

The learned counsel for the petitioner contends that the Tribunal failed to exercise its power under Section 11-A of the Act, and ought to have at least reinstated the petitioner as a fresh Conductor by applying theory of proportionality but the Tribunal mechanically dismissed the I.D.

The learned Standing Counsel for the respondent-Corporation has contended that the Tribunal rightly dismissed the I.D. and the charges leveled against the petitioner were proved in the enquiry and the disciplinary authority has rightly imposed punishment of removal of service for the proven misconduct.

This Court, having considered the rival contentions of the learned counsel for both the parties, is of the opinion that the Tribunal ought to have exercised its power under Section 11-A of the Act by applying the theory of proportionality and at least ought to have ordered fresh appointment to the petitioner.

Having regard to the fact that this is the lone incident wherein the petitioner had indulged in his entire career, this Court is of the considered view that ends of justice would be met if the 2nd respondent is directed to appoint the petitioner as fresh Conductor subject to medical fitness and pass appropriate orders, within a period of four weeks from the date of receipt of a copy of this order.

With these observations, the writ petition is disposed of.
No order as to costs.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

23-10-2018

bcj

ABHINAND KUMAR SHAVILI, J

