

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.8527 OF 2007

ORDER:

This writ petition is filed challenging the award dated 19.10.2006, passed by the Industrial Tribunal-cum-Labour Court, Ananthapur in I.D.No.106 of 2005.

Heard Sri A. Rama Rao, learned Standing Counsel for the petitioners-Corporation and Sri G. Ravi Mohan, learned counsel for the 1st respondent workman.

It has been contended by the learned Standing Counsel for the petitioners-Corporation that the 1st respondent-workman was appointed as driver in the petitioners corporation in the year 1980 and while he was discharging his duties during January, 2005, he had indulged in cash and ticket irregularities and the said conduct of the 1st respondent-workman was construed as a misconduct and after initiating disciplinary proceedings and after conducting a detailed enquiry, the disciplinary authority has imposed a punishment of removal of the 1st respondent-workman for the proven misconduct in the enquiry on 4.5.2005. Questioning the same, the 1st respondent-workman has unsuccessfully preferred appeal and review and thereafter, filed I.D.No.106 of 2005 under Section 2-A(2) of the Industrial Disputes Act, 1947 (for short, "the Act"). The Industrial Tribunal vide award dated 19.10.2006, has set aside the order of removal and directed that the 1st respondent-workman, be reinstated into service with continuity of service with attendant benefits and 70% of back wages. Challenging the same, the present writ petition came to be filed.

It has been further contended by the learned Standing Counsel for the petitioners-Corporation that the Labour Court had failed to appreciate that the disciplinary authority has imposed the punishment of removal based on the proven misconduct in the enquiry and no illegality has been committed by the disciplinary authority, but the Labour Court had interfered with the order of punishment of removal exercising its power under Section 11-A of the Act. While doing so, the Labour Court, ought not to have granted 70% of the back wages to the 1st respondent-workman.

Learned counsel appearing for the 1st respondent-workman, would contend that the Labour Court, has rightly passed the award and no interference is called for and when no irregularity or illegality is pointed out, normally the award of the Labour Court would not be interfered with. There are no merits in the writ petition and the writ petition is liable to be dismissed.

Having considered the rival submissions made by the petitioners as well as the 1st respondent-workman, this Court is of the considered view that the Labour Court, had exercised its power under Section 11-A of the Act and interfered with the punishment of removal only based on the proportionality theory, but while exercising its power, the Labour Court ought not to have granted 70% of back wages. Therefore, ends of justice would be met if the award of the Labour Court in respect of granting 70% of the back wages, is modified to that of 50% of back wages and the rest of the award is confirmed.

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

Sequel to disposal of the writ petition, Miscellaneous Petitions, if any pending, shall also stand closed.

ABHINAND KUMAR SHAVILI,J

Date:18.09.2018.
Gk.



HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

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