

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.16661 of 2004

ORDER

This writ petition is filed seeking the following relief:

“...to issue appropriate writ or order or direction more particularly one in nature of writ of Mandamus declaring the Award in LCID No.162/2002, dated 12.4.2004 passed by the Central Government Industrial Tribunal-cum-Labour Court at Hyderabad in confirming the dismissal order of 22.11.2001 passed by the respondent is illegal, arbitrary and against principles of natural justice and set aside the same and consequently direct the respondent to reinstate the petitioner into service with full back wages, continuity of service and all other attendant benefits and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

Heard Sri P.Giri Krishna, learned counsel appearing for the petitioner and learned Standing Counsel appearing for the respondent-Company.

It is the case of the petitioner that initially, he was appointed as Coal Filler in the year 1999, and thereafter, promoted as Trammer. While he was discharging his duties as such, he was asked to perform the job of Assistant Chainman to issue coal to lorries from bunker at GDK No.8 incline. As he was not a regular Chainman or Assistant Chainman, he could not discharge his duties properly. Hence, the respondent issued a charge sheet on 24.11.2000 stating that the

petitioner has not entered the Lorry Trip Sheet, which amounts to misconduct under Company's Standing Order No.25(1). The petitioner has submitted his explanation. Being not satisfied with the said explanation, the respondent has ordered regular enquiry. After conducting departmental enquiry, the respondent dismissed him from service *vide* proceedings dated 22.11.2001. Challenging the same, the petitioner has filed LCID No.162 of 2002 before the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad, under Section 2-A (2) of the Industrial Disputes Act, 1947. Without properly appreciating the case of the petitioner, the Tribunal had mechanically dismissed the said LCID *vide* order dated 12.4.2004. Challenging the same, the present writ petition is filed.

Learned counsel appearing for the petitioner submits that the petitioner had put in more than 22 years of service with the respondent and the punishment of dismissal is too harsh for the alleged misconduct said to have been committed by him; that the Tribunal ought to have applied the proportionality theory, and interfered with the punishment of dismissal; that the Tribunal ought to have modified the punishment, so that he can get some terminal benefits to which he is entitled to; and that appropriate orders be passed

directing the respondent to reinstate the petitioner into service with continuity of service.

Learned Standing Counsel appearing for the respondent submits that the respondent had imposed the punishment upon the petitioner for the proven misconduct in the enquiry and that there is no illegality or irregularity in the Award passed by the Tribunal.

Having considered the submissions made by the learned counsel on either side, this Court is of the view that the Tribunal ought to have interfered with the punishment of dismissal and modified the punishment of dismissal to that of removal, so that the petitioner would have get some terminal benefits for the service which he has rendered with the respondent. The allegation levelled against the petitioner is that he failed to enter the details of lorry and no allegation of theft or misappropriation is levelled against him. Therefore, ends of justice would be met if the punishment of dismissal is modified to that of removal, so that, the petitioner can get monetary benefits.

Accordingly, the Writ Petition is disposed of. The respondent is directed to pay benefits to the petitioner for the service rendered by him in the Corporation from 1990-2001. No costs.

Consequently, miscellaneous petitions, if any, pending
in the writ petition shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

12th December, 2018
rkk

