

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 24416 OF 2005

ORDER :

This writ petition is filed seeking the following relief:

“For the reasons stated in the accompanying affidavit the petitioner herein prays that this Hon’ble Court may be pleased to issue an order or direction more particularly one in the nature of Writ of Certiorari by calling for the records pertaining to Proc.No.P1/1(41)/2000-VVVD,Dtd.19-03-2001 passed by the 1st respondent herein removing the petitioner from service as confirmed by the 2nd respondent by Award Dt: 29-07-2003 passed in I.D.No.11 of 2003 on the file of the Industrial Tribunal-cum-Labour Court, Godavarikhani and quash the orders passed therein and consequently direct the 1st respondent herein to reinstate the petitioner in to service with all attendant benefits including continuity of service and full back wages and pass such other order or orders as this Hon’ble may deem fit and proper in the circumstances of the case.”

Heard Sri Jithender Rao Veeramalla, the learned Counsel for the petitioner, Sri A.Ravi Babu, the learned Standing Counsel for TSRTC and the learned Government Pleader for Labour.

It is the case of the petitioner that he was appointed as Driver on daily wage basis in the year 1997 and while he was discharging his duties, on 26.8.2000, the 1st respondent has issued charge sheet dated 26.8.2000 alleging unauthorized absence. The respondent-Corporation, construing the said act as misconduct, initiated disciplinary proceedings against the petitioner, and after conducting enquiry, imposed the punishment of removal from service on the petitioner on 19.3.2001. He

filed appeal and the same was rejected on 31.8.2001. Thereafter, the petitioner filed I.D.No.11 of 2003 under Section 2-A(2) of the Industrial Disputes Act before the Industrial Tribunal-cum-Labour Court, Godavarikhani. But the Labour Court dismissed the I.D. Challenging the same, the present writ petition is filed.

Learned Counsel for the petitioner contended that during entire service career of the petitioner, this is the lone allegation against the petitioner and the petitioner has not indulged in any misappropriation, but the Labour Court has mechanically dismissed the I.D., filed by the petitioner, without considering his case and without applying proportionality theory, and therefore, the award passed by the Labour Court is liable to be set aside and the petitioner may be directed to be reinstated into service.

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 in this writ petition 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 taking into

consideration the fact that this is the only incident in the entire career of the petitioner, it ought to have 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 driver, 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

Date:30.11.2018.

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