

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 4142 of 2010

O R D E R:

This present writ petition is filed seeking to issue a writ of *Mandamus* declaring the action of respondent No.2 in issuing the impugned proceedings dated 29.05.2007, removing the petitioner from service, as illegal and arbitrary.

The petitioner-workman initially appointed as Conductor in respondent No.2-Corporation on regular basis. While he was conducting the bus on the route Manugur-Kothagudem, a check was conducted at stage No.8/9 and found that the petitioner violated the rule of issue correct tickets to the passengers. Basing on the same, respondent No.2 issued a charge memo by framing charges against the petitioner for which he submitted his explanation. After completion of the enquiry, the enquiry officer submitted his report dated 17.4.2006. Based on the same, respondent No.2 issued proceedings dated 29.5.2007 removing the petitioner from service. The appeal and review preferred by the petitioner, were rejected by orders dated 21.07.2007 and 10.09.2007 respectively. Aggrieved by the same, the petitioner-

workman preferred ID No.97 of 1997 before respondent No.1, and the same was dismissed. Aggrieved by the same, the present writ petition is filed.

Heard learned counsel for petitioner and learned Standing Counsel for respondent No.2-Corporation and perused the material on record.

Learned counsel for petitioner would contend that respondent No.1 by applying proportionality theory, ought to have set aside the order dated 29.05.2007 passed by respondent No.2 and imposed lesser punishment than removal of petitioner from service.

On the other hand, learned Standing Counsel for respondent No.2-Corporation would contend that respondent No.2-Corporation, had imposed punishment of removal from service for the proven misconduct and therefore, the labour court had rightly rejected the case of the petitioner. Hence, there are no grounds to interfere with the order impugned.

The main allegation levelled against the petitioner is cash and ticket irregularity and that he failed to observe the rule "issue and Start". This Court is of the considered view that ends

of justice would be met, by applying proportionality theory, if the respondents are directed to reinstate the petitioner as a fresh Conductor without continuity of service, back wages and other attendant benefits.

With the above observations, the writ petition is disposed of. No costs.

Miscellaneous Petitions, if any, pending in this writ Petition shall stand closed.

04th October, 2018
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ABHINAND KUMAR SHAVILI, J

