

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.8294 OF 2002

ORDER:

This Writ Petition is filed seeking to issue a writ of *Certiorari* calling for the records relating to and connected with the order dated 21.08.2001 passed in I.D. No.155 of 2000 by the Industrial Tribunal-cum-Labour Court at Visakhapatnam (for short, 'the Tribunal') and to quash the same by declaring it as illegal, *void* and consequently to direct the 2nd respondent to reinstate the petitioner into service forthwith with all consequential benefits.

2. During pendency of the Writ Petition, the petitioner herein died on 29.01.2008 and his legal representatives are brought on record as petitioners 2 to 5 *vide* orders dated 16.08.2018 in I.A. No.3 of 2008 (W.P.M.P. No.34550 of 2008).

3. Heard Sri T.S.Venkata Ramana, learned counsel for the petitioners, and Sri S.V.Ramana, learned Standing Counsel for the 2nd respondent – Corporation.

4. It has been contended by learned counsel for the petitioners that the deceased 1st petitioner was initially appointed as Conductor in the 2nd respondent – corporation, on compassionate grounds, and while he was conducting the bus bearing No.AP 9Z 8248, on 29.04.1999, the checking officials of the 2nd respondent – Corporation has conducted a surprise check and found that the 1st petitioner had indulged in cash and ticket irregularities and the said conduct of the 1st petitioner was construed as a misconduct. The 2nd respondent – Corporation, initiated disciplinary proceedings and, after conducting regular departmental enquiry, removed him from service *vide* order dated 09.09.1999. Questioning the same, the

1st petitioner preferred Appeal and the same was rejected and, thereafter, raised an Industrial Dispute before the Tribunal in I.D. No.155 of 2000, under Section 2-A (2) of the Industrial Disputes Act, 1947 (for short, 'the Act'), which was dismissed on 21.08.2001.

5. The grievance of the petitioners is that, due to communication gap between the deceased 1st petitioner and his counsel engaged before the Tribunal, neither the 1st petitioner nor his counsel attended before the Tribunal on 21.08.2001, on which date the Tribunal dismissed the case *i.e.*, I.D. No.155 of 2000 on the ground that the 1st petitioner was absent and there was no representation on his behalf.

6. Learned Standing Counsel appearing for the 2nd respondent – Corporation contends that the Tribunal had rightly dismissed I.D. No.155 of 2000, preferred by the 1st petitioner, on the ground that he was absent, when the case was called, and therefore no interference is called for by this Court.

7. This Court, having considered the submissions made by the parties, is of the considered view that the Tribunal ought to have passed order on merits, basing on the material available before it, in exercise of the power under Section 11-A of the Act, instead of dismissing the case on the ground that the deceased 1st petitioner was not present. Hence, without going into merits of the case, the order passed by the Tribunal in I.D. No.155 of 2000 is set-aside and the matter is remanded back to the Tribunal, for fresh adjudication, based on merits.

8. It is needless to mention that as the Appeal preferred by the deceased 1st petitioner pertains to the year 1999 and I.D. No.155 of 2000 preferred by him was dismissed by the Tribunal as long back as on 21.08.2001, it would be appropriate if the Tribunal decides the I.D. No.155

of 2000, after hearing the petitioners 2 to 5, who are impleaded as legal heirs of the deceased 1st petitioner, and pass appropriate orders thereon, within a period of six (6) months from the date of receipt of a copy of this order.

9. With the above observations, the Writ Petition is disposed of. No costs.

Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed in consequence.

Date: 16.08.2018.
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ABHINAND KUMAR SHAVILI, J



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318



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Date. 16.08.2018

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