

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 6306 of 2002

ORDER:

This writ petition is filed seeking to issue a writ of certiorari calling for the record relating to and connected with M.P.No.71 of 1999 on the file of the Labour Court-I, Hyderabad, and quash the order dated 23.04.2001 passed therein.

2. Heard Sri N. Vasudeva Reddy, learned standing counsel for the petitioner corporation, and Sri P. Sridhar Rao, learned counsel for the respondent workman.

3. It has been contended by the petitioner corporation that the respondent was appointed as a Conductor in the corporation on 20.07.1989 and, while discharging his duties, he had indulged in cash and ticket irregularities. The petitioner corporation construed the conduct of the respondent as misconduct, initiated disciplinary proceedings, and after conducting a detailed departmental enquiry, imposed a punishment of removal from service vide orders dated 04.03.1991. Thereafter, the respondent preferred an appeal and the appellate authority rejected the appeal. Being aggrieved, he raised an industrial dispute before the Labour Court-I, Hyderabad, in I.D.No.137 of 1993. The learned Tribunal, after examining the case, passed award on 30.09.1996 directing the petitioner corporation to reinstate the respondent into service afresh for all purposes except for pensionary benefits. The Labour Court imposed a condition that the

award passed by it will come into force after expiry of 30 days from the date of publication in the official gazette by the Government and within 60 days thereafter, the respondent should approach the petitioner corporation with a request to issue orders of appointment. Another condition was also imposed that if the respondent fails to report before the petitioner corporation for appointment as a fresh entrant within the stipulated time, the award shall be deemed to have been dismissed. It is further contended that though there was a condition for reporting, the respondent failed to report within the stipulated time, but, instead, he reported only after two years from the date of passing of the award i.e., in the month of July, 1999. Therefore, the petitioner corporation had not entertained the request of the respondent. The respondent, instead of challenging the award dated 30.09.1996 on fixing the time frame for reporting, had preferred M.P.No.71 of 1999 under Section 33-C(2) of the Industrial Disputes Act claiming wages. The Labour Court adjudicated the matter and passed award on 23.04.2001 that the respondent is entitled for wages from 25.07.1999 to 30.11.1999. Challenging the same, the present writ petition is filed.

4. Learned counsel appearing for the respondent workman contends that conditions 'c & g' of paragraph 14 of the impugned award are contrary to law and the same are not in accordance with law and cannot be put against the petitioner. It has been further contended that the award of the Labour Court dated 30.09.1996 was not

communicated to the respondent and it was communicated only in July, 1999 and, having obtained a certified copy of the same, he reported for duty and, hence, the petitioner corporation was not right in rejecting the case of the respondent for appointment as a fresh entrant. The Labour Court has rightly passed the award dated 23.04.2001 in M.P.No.71 of 1999 and, therefore, no interference is called for.

5. This Court, having considered the submissions made by the parties, is of the view that when once the Labour Court had passed award dated 30.09.1996 in I.D.No.137 of 1993, the respondent ought to have approached the petitioner corporation and sought to issue orders of appointment within the stipulated time as prescribed by the Labour Court in condition 'c' of para 14 of its award. Condition 'b' of the award that it shall become enforceable on the expiry of thirty days from the date of its publication by the Government, is in pursuance of Section 17A of the Industrial Disputes Act. Therefore, the contention of the respondent that the award dated 30.09.1996 will come into force when it has come to the knowledge of the respondent, cannot be sustained. Further, the respondent had not chosen to challenge the said conditions for his reinstatement as a fresh entrant. In the absence of the same, this Court cannot come to the rescue of the respondent. On the other hand, the respondent filed M.P.No.71 of 1999 claiming back wages, as though he has been reinstated as a fresh entrant. Since the respondent failed to approach the petitioner

corporation within the stipulated time as set out by the Labour Court, the question of reinstating the respondent into service and treating him to be in service from July, 1999 would not arise.

6. Therefore, the writ petition is allowed and the award passed by the Tribunal in M.P.No.71 of 1999 dated 23.04.2001 is set aside.

Consequently, miscellaneous petitions, if any, pending in the writ petition shall stand closed. No order as to costs.

ABHINAND KUMAR SHAVILI, J

10th August, 2018
cbs



HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI



Writ Petition No. 6306 of 2002
(allowed)

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