

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 11131 of 2002

ORDER:

This writ petition is filed seeking to issue a writ of certiorari calling for the record relating to and connected with I.D.No.23 of 1999 on the file of the Labour Court, Guntur, and quash the award dated 28.07.2001 passed therein.

2. Heard Mr. P. Durga Prasad, learned standing counsel for APSRTC appearing on behalf of the petitioners, and Mr. P. Raghavendra Reddy, learned counsel for the 1st respondent.

3. It has been contended by the standing counsel for the petitioner corporation that the 1st respondent was appointed as a conductor in the petitioner corporation in the year 1989. While the 1st respondent was working at APSRTC bus depot, Vakadu, Nellore District, the Senior Traffic Inspector, Vakadu Depot submitted a report stating that the 1st respondent was unauthorizedly absented from duty without prior sanction of leave from the competent authority. Basing on the said report, a charge sheet dated 23.06.1995 was issued for which the 1st respondent submitted explanation. As the explanation was neither convincing nor satisfactory, a domestic enquiry was ordered. The Enquiry Officer submitted a report dated 27.07.1995 holding that the charges leveled against the 1st respondent were proved. The disciplinary authority after considering the entire material available on record together with the enquiry officer's report came to a conclusion

that the 1st respondent was liable for the charges and issued a show cause notice dated 06.09.1995 calling upon him to explain as to why he should not be removed from service and issued a final order dated 24.10.1995 removing the 1st respondent from service. Aggrieved thereby, the 1st respondent raised a dispute in I.D.No.23 of 1999 before the Labour Court, Guntur. Without properly appreciating the evidence on record, the Labour Court passed an award dated 28.07.2001 directing the petitioner corporation to reinstate the 1st respondent into service with continuity of service and with 50% of back wages. Challenging the same, the petitioner corporation filed the present writ petition.

4. Having considered the rival submissions made by the parties, this Court is of the considered view that the Labour Court has given a finding that the punishment of removal from service for the proved misconduct is too harsh and disproportionate, relying upon the judgment of the Apex Court in *Sayard Jaheer Hussain and Union of India and others* (1998 (81) FLR 704 and also the judgment of this Court in *Divisional Manager, Life Insurance Corporation of India Vs. S.S.Rajan* (1996 LIC 490), and interfered with the order of removal. However, in the facts and circumstances of the case, ends of justice would be met, if the award passed by the Labour Court is modified by reducing the back wages from 50% to 25%.

5. Accordingly, the writ petition is disposed of and the award passed by the Labour Court is modified by reducing the back wages

from 50% to 25%. Rest of the award is confirmed. Consequently, miscellaneous petitions if any pending in the writ petition shall stand closed. There shall be no order as to costs.

ABHINAND KUMAR SHAVILI, J

24th July, 2018
cbs



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(disposed of)

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