

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.10973 of 2016

ORDER

This writ petition is filed seeking the following relief:

“....to issue an appropriate writ, order or direction especially one in the nature of writ of certiorari calling for the records relating to the impugned award dt 03.07.2014 made in I.D.No.20/2008 of the Chairman, Industrial Tribunal-cum-Labour Court-cum-VI Addl. District & Sessions Court, Godavarikhani, Karimnagar District, published on 09.09.2014 in G.O.RT.No.90 allowing the petition and directing the petitioner to reinstate the respondent No.2 into service with continuity of service and all consequential attendant benefits but with only 50 of back wages and quash the same as being bad and illegal, without jurisdiction and is invalid and pass such other order or orders as this Hon'ble Court may deems fit, just and proper in the circumstances of the case.”

Heard Sri A.Ravi Babu, learned Standing Counsel appearing for the petitioner-Corporation and Sri K.Lakshmi Manohar, learned counsel appearing for the 2<sup>nd</sup> respondent-workman.

It is the case of the petitioner-Corporation that the 2<sup>nd</sup> respondent-workman was appointed as Conductor Grade-II in the Corporation on 1.8.1995. While working as such, he had committed certain cash and ticket irregularities during May 2007. Construing the said incident as misconduct, the

Corporation initiated disciplinary proceedings against the 2<sup>nd</sup> respondent-workman. After conducting detailed enquiry for the proven misconduct, the Corporation removed the 2<sup>nd</sup> respondent from service *vide* proceedings dated 31.12.2007. The appeal and the review preferred by the 2<sup>nd</sup> respondent were dismissed. Hence, the 2<sup>nd</sup> respondent filed I.D.No.20 of 2008 before the Industrial Tribunal-cum-Labour Court-cum-VI Additional District & Sessions Court, Godavarikhani, under Section 2-A(2) of the Industrial Disputes Act, 1947. Without appreciating the contentions raised by the Corporation, the Tribunal had allowed the ID preferred by the respondent-workman *vide* Award dated 03.07.2014, by setting aside the order of removal and directed the Corporation to reinstate the 2<sup>nd</sup> respondent-workman into service with continuity of service, all attendant benefits with 50% back wages. Challenging the said Award, the present writ petition is filed.

Learned Standing Counsel appearing for the petitioner-Corporation contended that without taking into consideration the fact that in the enquiry charges leveled against the 2<sup>nd</sup> respondent-workman were proved, the Tribunal ought not to have set aside the removal order and reinstated the petitioner

into service. It is prayed that appropriate orders be passed by setting aside the Award dated 3.7.2014 in I.D.No.20 of 2008.

Learned counsel appearing for the 2<sup>nd</sup> respondent-workman contended that the Tribunal had interfered with the punishment of removal by applying proportionality theory and rightly passed the Award in favour of the 2<sup>nd</sup> respondent in exercise of its power under Section 11-A of the Act. It is further contended that since the 2<sup>nd</sup> respondent has retired from service, the writ petition is liable to be dismissed.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the view that the Tribunal has rightly passed the Award in favour of the 2<sup>nd</sup> respondent by applying proportionality theory and in exercise of its power under Section 11-A of the Act. The Tribunal has categorically given a finding that none of the witnesses have supported the case of the Corporation in the enquiry and hence, the Tribunal passed the Award in favour of the 2<sup>nd</sup> respondent-workman. Further, the 2<sup>nd</sup> respondent has already retired from service on 30.09.2014. The Tribunal has not committed any illegality or irregularity in passing the Award. Hence, this Court is not inclined to interfere with the Award passed by the Tribunal. There are no merits in the writ petition and the same is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

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JUSTICE ABHINAND KUMAR SHAVILI

*20<sup>th</sup> September, 2019*

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