

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI**W.P.No.17040 OF 2007****ORDER**

This writ petition is filed seeking the following relief:

“... to issue any writ or appropriate writ, direction or order more particularly one in the nature of Writ of Mandamus setting aside the impugned award dated 10.5.2006 passed in I.D.No 67 of 2004 on the file of the Addl. Industrial Tribunal-cum-Addl Labour Court, Hyderabad, as illegal and arbitrary.”

Heard Sri N.Vasudeva Reddy, learned Standing Counsel appearing for the petitioner-Corporation, and Sri A.K.Jaya Prakash Rao, learned counsel appearing for the 1st respondent.

It is the case of the petitioner-Corporation that the 1st respondent-workman was engaged as a casual Conductor on daily wage basis with effect from 16.08.1989 and thereafter, his services were regularized. While discharging his duties as such, he had committed certain cash and ticket irregularities. Hence, the disciplinary authority initiated disciplinary proceedings against the 1st respondent. After conducting detailed enquiry and for the proven misconduct, the disciplinary authority has imposed the punishment of removal from service *vide*

order dated 22.07.2003. Challenging the same, the 1st respondent has preferred an appeal and the same was dismissed. Aggrieved by the same, he preferred I.D.No.67 of 2004 before the Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad, under Section 2-A(2) of the Industrial Disputes Act, 1947 (for short 'the Act'). The Tribunal *vide* order dated 10.05.2006 set aside the removal order and directed the petitioner-Corporation to reinstate the 1st respondent-workman into service with continuity of service, full back wages and all attendant benefits. Questioning the same, the present writ petition is filed by the Corporation.

Learned Standing Counsel appearing for the petitioner-Corporation contends that none of the contentions raised by the Corporation were appreciated by the Tribunal and the Tribunal had mechanically allowed the I.D. preferred by the 1st respondent. Therefore, the impugned Award passed by the Tribunal is liable to be set aside.

Learned counsel appearing for the 1st respondent contends that the Tribunal has given a specific finding that the 1st respondent had issued tickets to all the

passengers and the checking staff of the Corporation also noted that the tickets issued were tallied with the SR of the conductor. It is further contended that the Tribunal had given a specific finding that two of the passengers have thrown away the tickets and ran away from the scene. Therefore, under no stretch of imagination, the 1st respondent is responsible for the cash and ticket irregularities. The Tribunal had recorded a finding that there could be lacuna on the part of the passengers, but not on the part of the 1st respondent. Hence, the Tribunal has rightly set aside the removal order and directed the Corporation to reinstate the 1st respondent into service with continuity of service, full back wages and attendant benefits. Therefore, no interference is called for from this Court and the Writ Petition is liable to be dismissed.

As can be seen from the record, it appears that the Tribunal has specifically recorded a finding that the 1st respondent has collected the fare and issued tickets to the passengers. But the passengers have not produced the tickets and they have thrown away the same before the checking officials of the Corporation. Therefore, the Tribunal held that the charge levelled against the 1st

respondent was not proved. Hence, the Tribunal set aside the removal order and allowed the ID preferred by the 1st respondent. During pendency of the writ petition, the 1st respondent-workman was reinstated into service and thereafter, retired from service on attaining the age of superannuation on 31.5.2013.

The issue that remains to be considered is as to whether the 1st respondent-workman is entitled to full back wages with continuity of service and attendant benefits.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the view that 1st respondent-workman is entitled to continuity of service and attendant benefits as directed by the Tribunal. Insofar as back wages, since the 1st respondent was out of employment for a period of four years, ends of justice would be met if a direction is given to the petitioner-Corporation to pay 50% of the back wages to the 1st respondent.

Accordingly, the Award dated 10-05-2006 passed in I.D.No.67 of 2004 is modified only to the extent of payment of 50% back wages to the 1st respondent. In all

other aspects, the rest of the Award is confirmed. It is needless to state that the petitioner-Corporation shall settle the terminal benefits of the 1st respondent within a period of eight weeks from the date of receipt of a copy of this order.

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

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

3rd September, 2019
rkk

