

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.5630 OF 2019

ORDER

When the matter is taken up for hearing, learned counsel appearing for the petitioner seeks permission to withdraw the writ petition with liberty to the petitioner to approach the 2nd respondent-District Panchayat Officer.

Reserving such liberty, the Writ Petition is dismissed as withdrawn. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

9th August, 2019
rkk

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.21586 OF 2013

ORDER

This writ petition is filed seeking the following relief:

“...to issue an appropriate writ or direction particularly one in the nature of Writ of Certiorari quash the impugned award dated 27.12.2012 made in I.D.No.42 of 2010 published on 15.02.2013 on the file of Labour Court-II, Hyderabad in respect of denial of continuity of service, attendant benefits and back wages as arbitrary, unjust and in violation of Art 14, 16, 21 of the Constitution of India and consequently the petitioner pray this Honble Court may be pleased to direct the respondents to treat the afresh appointment as that of reinstatement into service along with continuity of service, attendant benefits and back wages in the interest of justice and fair play.”

Heard Sri K.Vasudeva Reddy, learned counsel appearing for the petitioner, and Sri N.Vasudeva Reddy, learned Standing Counsel appearing for the respondent-Corporation.

It is the case of the petitioner that initially, he was appointed as a Conductor on 01.07.1990. His services were regularized in the year 1992 and he is discharging his duties as such. While so, 2nd respondent *vide* order dated 03.03.1999 removed him from service after conducting regular departmental enquiry and for the proven misconduct. Aggrieved by the same, the petitioner preferred appeal and the same was dismissed. Challenging the same, he preferred

revision and the same was also dismissed. Thereafter, the petitioner filed I.D.No.42 of 2010 before the Labour Court-II, Hyderabad. The Labour Court *vide* order dated 27.12.2012 set aside the order of removal on the ground that the suspension order passed against the petitioner was shockingly disproportionate, directed the respondents to reinstate him into service afresh without back wages and attendant benefits and further directed that the past service rendered by the petitioner will be counted for the purpose of pensionary benefits. Challenging the same, the present writ petition is filed.

Learned counsel appearing for the petitioner submits that appropriate orders be passed by modifying the Award dated 27.12.2012 passed in I.D.No.42 of 2010 by the Labour Court directing the respondents to pay back wages, continuity of service, attendant benefits and with all consequential benefits.

Learned Standing Counsel appearing for the respondents submits that the Labour Court had interfered with the punishment only on the proportionality theory and that the Labour Court has rightly denied back wages, attendant benefits, continuity of service and that there are no

merits in the writ petition and the same is liable to be dismissed.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that the Labour Court has passed order modifying the punishment of removal to that of appointment afresh, without back wages, continuity of service and attendant benefits. However, the Labour Court had rightly reckon his past service for the purpose of pensionary benefits. The Labour Court has categorically held that though the charge levelled against the petitioner was proved, only the principle of proportionality theory, interfered with the punishment of removal and modified the said punishment of removal to that of removal with appointment afresh. This Court is not inclined to interfere with the Award passed by the Labour Court. 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.

JUSTICE ABHINAND KUMAR SHAVILI

9th August, 2019
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