

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.10487 OF 2010

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 dated 20.10.2008 in I.D.No.83/ 2007 of Labour Court-III, Hyderabad published on 19.11.2008 in G.O.Rt.No.2241, dated 19.11.2008 directing reinstatement the 1st respondent into service with continuity of service and attendant benefits and quash the same as being bad, illegal, invalid and without jurisdiction.”

It is the case of the petitioner-Corporation that the respondent-workman was appointed as a Conductor during June, 1990 and his services were regularized with effect from 1.9.1992. While so, he had involved in certain cash and ticket irregularities during February, 2006. Construing the said act as misconduct, the petitioner-Corporation has initiated disciplinary proceedings against the respondent-workman. The disciplinary authority, after conducting enquiry, removed the respondent-workman from service, for the proven misconduct, *vide* order dated 21.09.2006. Challenging the said removal order, the respondent-workman filed I.D.No.83 of 2007 before the Labour Court-III, Hyderabad, under Section 2-A (2) of the Industrial Disputes Act (for short 'the Act'). The

Labour Court *vide* order dated 20-10-2008 set aside the order of removal and directed the Corporation to reinstate the respondent-workman into service with continuity of service and attendant benefits, however, denied back wages. Challenging the same, the Corporation had filed the present writ petition.

Learned Standing Counsel appearing for the petitioner-Corporation submits that the Labour Court ought not to have interfered with the punishment of removal and reinstated the petitioner into service. Since the charges leveled against the respondent-workman were proved, the disciplinary authority has imposed the major penalty of removal from service for the proven misconduct.

Learned counsel appearing for the respondent-workman contended that the Labour Court has rightly passed the Award by setting aside the removal order in exercise of its power under Section 11-A of the Act with a specific observation that the currency of punishment imposed against the respondent-workman was shockingly disproportionate to that of the charges leveled against him. Therefore, the Labour Court has rightly passed the Award in favour of the respondent-workman. It is further contended that in pursuance of the Award passed by the Labour Court, the respondent-workman

was reinstated into service and he is discharging his duties 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 view that the Labour Court, after giving a specific finding that the punishment of removal is disproportionate to the charges leveled against the respondent-workman, rightly passed Award in I.D.No.83 of 2001 dated 20-10-2008 by setting aside the removal order by applying proportionality theory and in exercise of its power under Section 11-A of the Act. The Labour Court while setting aside the removal order, has rightly denied the back wages to the respondent-workman. The impugned Award passed by the Labour Court needs no interference 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

12th September, 2019
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