

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.27114 of 2005

ORDER :

This writ petition is filed seeking to issue a Writ of Certiorari calling for the records relating to and connected with I.D.No.119 of 2002 on the file of the 1st respondent-Labour Court-I, and to quash the award dated 05.02.2005 passed therein, insofar as denying back wages to the petitioner, as illegal and arbitrary, and sought a consequential direction to grant full back wages to the petitioner.

Heard Sri A.K. Jayaprakash Rao, learned counsel for the petitioner and Sri N. Vasudeva Reddy, learned Standing Counsel for 2nd respondent – Corporation.

It has been contended by the learned counsel for the petitioner that the petitioner was initially appointed as Conductor in the 2nd respondent Corporation on 03.08.1982 and while he was discharging his duties as Conductor during April, 2000, the Checking officials of the respondents have conducted a check and found that the petitioner had indulged in Cash and Ticket irregularities. The Disciplinary Authority had initiated disciplinary proceedings and after conducting a detailed domestic enquiry, the Disciplinary Authority has imposed the punishment of removal from service against the

petitioner for the above proven misconduct in the enquiry vide order dated 04.08.2000. Thereafter, the petitioner, having unsuccessfully preferred an appeal and revision before the Divisional Manager and the Regional Manager, respectively, filed I.D.No.119 of 2002 under Section 2-A(2) of the Industrial Disputes Act before the Labour Court. The Labour Court vide order dated 05.02.2005 was pleased to set aside the order of removal and directed that the petitioner be reinstated into service with continuity of service and all attendant benefits, but without back wages. Challenging the same, the present writ petition is filed.

Learned counsel for the petitioner contends that the Labour Court ought to have awarded the back wages while setting aside the order of removal. But, the Labour Court has erroneously denied back wages even though the charge levelled against the petitioner was not proved in the domestic enquiry. Learned counsel for the petitioner contends that appropriate orders be passed in the writ petition directing the respondents to pay full back wages by duly modifying the Award dated 05.02.2005 passed by the Labour Court in I.D.No.119 of 2002, in addition to the reliefs which were already granted by the Labour Court.

On the other hand, the learned Standing Counsel for the respondents Corporation contended that the Labour Court has rightly passed orders in favour of the petitioner and the Labour

Court has interfered with the punishment of removal only on proportionality theory and as no grave illegality or irregularity has been pointed out by the petitioner in the order passed by the Labour Court, this Court should not normally interfere with the order passed by the Labour Court. There are no merits in the writ petition and the same is liable to be dismissed.

This Court, having considered the rival submissions made by the learned Counsel for the parties, is of the considered view that the Labour Court has rightly passed order denying back wages to the petitioner and the Labour Court has interfered with the punishment of removal only by ordering reinstatement of the petitioner into service with all attendant benefits, by applying proportionality theory. The Labour Court was conscious of the fact that ends of justice would be met if the back wages are denied to the petitioner while interfering with the order of removal. Further, no illegality or irregularity is pointed out by the learned counsel for the petitioner in the order passed by the Labour Court. Unless and until any illegality or irregularity is pointed out by the learned counsel for the petitioner in the order passed by the Labour Court, this Court is not inclined to interfere with the order passed by the Labour Court. There are no merits in the writ petition and the writ petition is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No order as to costs.

As a sequel, miscellaneous petitions pending, if any, in this writ petition shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

22.01.2019.
Msr

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