

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P. No.22398 of 2011

ORDER

This writ petition is filed seeking the following relief:

“....to issue a writ or order or direction, especially one in the nature of Writ of Certiorari (i) call for the records pertains to I.D.No.67 of 2007 on the file of the Hon’ble Labour Court-II, Chandra Vihar Complex, MJ Road, Hyderabad, and allow the same duly setting aside the Award dt 26.8.2010 made therein (iii) and pass such other order or orders as this Hon’ble Court may deem fit and proper in the circumstances of the case.”

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

It is the case of the petitioner that initially, he was appointed as a Driver in the respondent-Corporation on 1.7.1990 and while he was discharging his duties as such, on 18.08.2006, a charge sheet was issued to him alleging certain irregularities. The respondent-Corporation, construing the said act as misconduct, initiated disciplinary proceedings against the petitioner, and after conducting enquiry, imposed the punishment of removal from service on the petitioner, vide proceedings dated 19.01.2007. Aggrieved by the same, the

petitioner filed I.D.No.67 of 2007 before the Labour Court-II, Hyderabad. The Labour Court vide Award dated 26.08.2010 dismissed the said I.D. Challenging the same, the present writ petition is filed.

Learned counsel appearing for the petitioner submitted that except for the incident in question, there are no such other incidents in the entire career of the petitioner and that the punishment of removal is very disproportionate and that the Labour Court ought to have applied proportionality theory and interfered with the punishment of removal, but the Labour Court has erroneously dismissed the I.D.

Learned Standing Counsel appearing for the respondent-Corporation contended that the disciplinary authority imposed punishment of removal for the proven misconduct and the Labour Court has rightly dismissed the I.D., and therefore, the award impugned does not warrant any interference.

This Court, having considered the submissions made by the parties and the nature of the charges leveled against the petitioner, is of the considered view, that the punishment of removal imposed by the respondent-Corporation is very disproportionate and the Labour Court ought to have

examined the case of the petitioner and interfered with the punishment of removal, by applying the proportionality theory and at least, the Labour Court ought to have directed the respondent-Corporation to reinstate the petitioner into service as fresh Driver. Since the punishment of removal is shockingly disproportionate, this Court feels that ends of justice would be met if the respondent-Corporation is directed to reinstate the petitioner into service as fresh Driver.

Accordingly, the writ petition is disposed of, directing the respondent-Corporation to reinstate the petitioner into service as fresh Driver, subject to medical fitness, with continuity of service only for the purpose of terminal benefits, without back wages and other attendant benefits. No costs.

Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

24th September, 2019

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