

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.29872 OF 2017

ORDER:

This writ petition is filed challenging the orders passed by the Industrial Tribunal, Warangal in I.D.No.2 of 2014, dated 18.03.2017.

Counsel for the petitioner – Corporation had contended that the respondent – workman was a Driver and he has driven the bus in drunken state and the Corporation construed the same as misconduct and initiated disciplinary proceedings against the respondent. After conducting detailed enquiry, the disciplinary authority has imposed major penalty of removal from service *vide* orders dated 30.03.2013 and thereafter the respondent has unsuccessfully preferred appeal and revision. Later, the respondent filed I.D.No.2 of 2014, under Section 2A(2) of the Industrial Disputes Act, before the Industrial Tribunal. The Tribunal *vide* orders dated 18.03.2017 was pleased to set aside the orders of removal and remitted the matter to the respondent therein to pass appropriate order of penalty within 60 days. However, while remanding the matter, the Tribunal has held that the punishment of removal imposed on the workman was disproportionate.

Counsel for the petitioner had contended that to the extent of remanding the matter to the Corporation by the Tribunal, the petitioner has no grievance, but the only grievance of the petitioner is that the matter was remanded with an observation that the punishment of removal imposed on the workman was shockingly disproportionate and that any other lesser punishment should be imposed. Counsel for

the petitioner further contended that during pendency of this writ petition, the respondent – workman has retired from service on attaining the age of superannuation on 30.11.2019. Therefore, the counsel for the petitioner contended that appropriate orders be passed in the writ petition by setting aside the impugned orders passed by the Tribunal in I.D.No.2 of 2014, dated 18.03.2017, holding that the same are passed contrary to law.

Counsel appearing for the respondent – workman had contended that the Tribunal has exercised its power under Section 11A of the Industrial Disputes Act and interfered with the punishment of removal on the ground that the punishment of removal is shockingly disproportionate to the charges levelled against the respondent, therefore, the Tribunal was right in setting aside the orders of removal, however remitted the matter to the Corporation to impose any other lesser punishment, as such, there are no merits and the writ petition is liable to be dismissed.

During the course of arguments, counsel appearing for the petitioner Corporation had contended that if the respondent – workman is willing to forego his back wages, the petitioner would consider the case of the respondent and pass appropriate orders by duly taking into account the fact that the respondent had already attained the age of superannuation.

Counsel appearing for the respondent, on instructions, has reported that the respondent is willing to forego the back wages and in

order to give quietus to this litigation, let the petitioner Corporation pass appropriate orders by imposing lesser punishment and settle all the terminal benefits in accordance with law.

This Court, having considered the rival submissions of learned counsel for respective parties, is of the considered view that this writ petition can be disposed of directing the petitioner Corporation to consider the case of the respondent afresh in terms of the observations made by the Industrial Tribunal and pass appropriate orders by duly taking into account the fact that the respondent has already retired from service. Since the respondent expressed his willingness to forego back wages, rest of the service benefits to which he is entitled as per the Rules, shall be settled and paid to him.

With the above observations, the writ petition is disposed of.
No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

10th December, 2019
v v