

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.23368 of 2003

ORDER

This writ petition is filed seeking the following relief:

“....to issue an appropriate writ, order or direction (a)declaring the action of the 1st respondent in removing me from service through orders No.PA/62(59)93-PKL, dated 18.12.1993 and the consequential orders passed by the 2nd respondent confirming the removal order passed by the 1st respondent, through order No.P.A/20/R/R(15)94-RM/WL, dated 7.7.1995 and consequently declare the orders passed by the 4th respondent in ID No.095/95, dated 8.9.1997 holding that I am guilty of the charges levelled against me as illegal, arbitrary and unconstitutional apart from being violative of principles of natural justice; consequently (b) quash the impugned orders passed by the 1st respondent in his proceedings No.PA/62(59)93-PKL, dated 18.12.1993 and the consequential orders passed by the 2nd respondent in his proceedings No.PA/20/R/R(15)/94-RM/WL, dated 7.7.1995 confirming the removal order passed by the 1st respondent and to direct the 3rd respondent and consequently (c) direct the respondents to reinstate me into service w.e.f the date of removing me from service by paying back wages and by giving me the service benefits and all other consequential benefits for which I am entitled; and (d) pass such other order or orders as this Hon'ble Court deems fit, proper and appropriate in the circumstances of the case.”

Heard Sri L.Sudheer, learned counsel appearing for the petitioner and Sri B.Mayur Reddy, learned Standing Counsel appearing for the respondent-Corporation.

It is the case of the petitioner that initially, he was appointed as a Conductor in the respondent-Corporation on 22.11.1987 and he was discharging his duties as such. While so, on 13-08-1993, a check was exercised by the checking officials and they found that the petitioner had indulged in cash and ticket irregularities. His conduct was construed as misconduct and after initiating disciplinary proceedings and after conducting regular enquiry, for the proven misconduct, the 1st respondent had imposed punishment of removal on the petitioner *vide* order dated 18.12.1993. Challenging the same, the petitioner preferred an appeal and the same was rejected on 07.07.1995. Thereafter, the petitioner has preferred I.D.No.95 of 1994 before the Industrial Tribunal-cum-Labour Court, Warangal. The Tribunal partly allowed the ID *vide* Award on 08.09.1997 by setting aside the removal order and directed the respondent-Corporation to reinstate the petitioner into service as Conductor afresh, without continuity of service, back wages and other attendant benefits. Aggrieved thereby, the present writ petition is filed.

Learned counsel appearing for the petitioner contended that when the Tribunal has given a specific finding that the punishment imposed against the petitioner was shockingly disproportionate to the charges levelled against him, it ought to have granted continuity of service for the purpose of pensionary benefits. It is prayed that appropriate orders be passed in the writ petition directing the respondents to consider the case of the petitioner for grant of continuity of service for the service rendered by him prior to the date of removal, for the purpose of terminal benefits.

Learned Standing Counsel appearing for the respondents contended that the charges levelled against the petitioner were held to be proved by the disciplinary authority and the Tribunal has also not exonerated the petitioner from the charges levelled against him, but the Tribunal has interfered with the punishment of removal by applying the proportionality theory in exercise of its powers under Section 11-A of the Industrial Disputes Act, 1947. Therefore, 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 when the Tribunal had exercised the

power under Section 11-A of the Industrial Disputes Act, and has given a specific finding that the punishment of removal is shockingly disproportionate to the charges levelled against the petitioner, the Tribunal ought to have granted continuity of service for the service rendered by him from the date of initial appointment till the date of removal for the purpose of terminal benefits.

Accordingly, the Writ Petition is disposed of directing the respondents to consider the case of the petitioner for grant of continuity of service for the purpose of terminal benefits and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Miscellaneous petitions, if any, pending in the writ petition shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

Date: 14.11.2019
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