

THE HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.8202 of 2005

ORDER:

This writ petition is filed seeking to issue a Writ of Certiorari to call for the records relating to and connected with the orders passed in I.D.No.33 of 2003, dated 30.09.2004, by the Industrial Tribunal-cum-Labour Court, Godavarikhani, and quash or set aside the same holding it as arbitrary, illegal and violative of Articles 14 and 16 of the Constitution of India.

2. Heard Sri A. Ravi Babu, learned Standing Counsel for the petitioner Corporation and learned Government Pleader for Labour.

3. It has been contended by the petitioner that the 1st respondent was appointed as conductor during February, 1987. At the time of appointment, the 1st respondent has produced a fake SSC certificate, wherein it was mentioned that he has secured 71% of marks and based upon the said percentage of marks in SSC, he was appointed as conductor. While the 1st respondent was discharging his duties as conductor, it was brought to the notice of the petitioner that the 1st respondent has secured employment by producing a fake SSC certificate, which shows that he has secured 71% of marks, but actually he secured only 40% of marks. Thereafter, the disciplinary authority had construed the same as misconduct and initiated disciplinary proceedings and after conducting detailed enquiry, the petitioner corporation has imposed a punishment of removal from

service on the 1st respondent. Thereafter, the 1st respondent has challenged the order of removal before the Industrial Tribunal under Section 2-A(2) of the Industrial Disputes Act, 1947 by filing I.D.No.33 of 2003. The Industrial Tribunal after considering the entire case was pleased to allow the I.D. preferred by the 1st respondent and directed the petitioner to reinstate the 1st respondent with continuity of service, however, without attendant benefits and back wages. Challenging the same, the present writ petition is filed.

4. Learned Standing Counsel appearing for the petitioner Corporation had contended that the Industrial Tribunal had passed order by setting aside the order of removal and directed the 1st respondent to be reinstated into service, even though the enquiry officer has held that the charge levelled against the 1st respondent was proved and the Industrial Tribunal ought not to have interfered with the punishment of removal and ought not to have directed the 1st respondent to be reinstated into service with continuity of service.

5. He further contended that the Industrial Tribunal had not considered the fact that the 1st respondent has secured employment by producing a fake SSC certificate, wherein it was mentioned that he has secured 71%, but actually he secured only 40%, and the Industrial Tribunal gave a finding that the 1st respondent has passed SSC examination and the SSC certificate produced by him was a genuine one, but not a fake one and the Industrial Tribunal had observed that the petitioner ought to have framed a charge against the 1st respondent for securing less marks than what has been claimed by the 1st

respondent. The Industrial Tribunal had considered the irrelevant facts, without appreciating that the 1st respondent produced a fake certificate, and passed orders in favour of the 1st respondent. Therefore, counsel for the petitioner submits that appropriate orders be passed in the writ petition by setting aside the order passed by the Industrial Tribunal in I.D.No.33 of 2003, dated 30.09.2004.

6. Learned Government Pleader appearing for the 2nd respondent has contended that the Industrial Tribunal has rightly passed order in favour of the 1st respondent and the petitioner relied upon a certificate issued by the Head Master, wherein it was stated by the Head Master that the 1st respondent has secured only 40% of marks. But, the said certificate alleged to have been filed by the petitioner was not marked before the Enquiry Officer nor before the Industrial Tribunal. In the absence of the fake certificate being marked before the Enquiry Officer nor Industrial Tribunal, the petitioner cannot contend that the 1st respondent has produced a fake certificate. The Industrial Tribunal has rightly interfered with the punishment of removal and set aside the same with continuity of service, however, denied the back wages and attendant benefits.

7. During the course of arguments, learned Government Pleader has also informed this Court that the 1st respondent was reinstated into service in pursuance to the orders passed by this Court and the 1st respondent has also retired from service. Therefore, the issue to be decided in this case is only of academic interest. Therefore, ends of

justice would be met if the order passed by the Industrial Tribunal is confirmed by this Court.

8. This Court, having considered the rival submissions of the learned counsel for respective parties, is of the considered view that the Industrial Tribunal has rightly passed orders in favour of the 1st respondent in I.D.No.33 of 2003, dated 30.09.2004, in exercise of its power by looking into the entire case and gave a specific finding that the SSC certificate of the 1st respondent was genuine and the SSC certificate produced by the petitioner was not marked either before the Enquiry Officer or before the Industrial Tribunal, and moreover, the 1st respondent was reinstated into service pursuant to the orders passed by the Industrial Tribunal and the 1st respondent has also retired from service. Therefore, this Court is not inclined to interfere with the order of the Industrial Tribunal.

9. Accordingly, the writ petition is dismissed.

Miscellaneous petitions pending, if any, shall stand closed. No costs.

ABHINAND KUMAR SHAVILI, J

9th September 2019

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