

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.15042 OF 2007

ORDER

This writ petition is filed seeking the following relief:

“...to issue an order or Writ or Direction more particularly one in the nature of Writ of Certiorari calling for the records pertaining to the Award dt 26-10-2006 passed in I.D.No.51 of 2004 from the 1<sup>st</sup> respondent and quashed the same as being illegal and invalid and consequently direct the 2<sup>nd</sup> respondent herein to reinstate the petitioner into service with continuity of service and all attendant benefits including full back wages and pass such other order or orders as this Hon'ble Court may deem fit and proper in the interest of justice.”

Heard learned counsel on either side.

It is the case of the petitioner that initially, he was appointed as Conductor in the year 1986 and his services were regularized with effect from 1.9.1986 and he is discharging his duties as such. While so, alleging certain cash and ticket irregularities, the disciplinary authority issued a charge memo dated 9.3.2003 to him, for which, he submitted his explanation on 1.4.2003. After conducting domestic enquiry, the disciplinary authority, for the proven misconduct, removed the petitioner *vide* proceedings dated 1-7-2003. Challenging the same, he preferred an appeal and the same was dismissed. Aggrieved by the same, he preferred review and the same was also dismissed. Hence, he preferred I.D.No.51 of 2004 under

Section 2-A (2) of the Industrial Disputes Act, 1947 before the Labour Court, Hyderabad. The Labour Court vide order dated 26.10.2006 dismissed the said I.D preferred by the petitioner. Challenging the same, the present writ petition is filed.

Learned counsel appearing for the petitioner contended that the Labour Court ought to have interfered with the punishment on the proportionality theory as the punishment imposed against the petitioner was shockingly disproportionate to the charges levelled against him. It is further contended that the Labour Court ought to have considered the case of the petitioner atleast for reinstatement into service afresh without continuity of service and back wages. It is also contended the Labour Court without appreciating the fact that there was no charge of misappropriation against the petitioner, dismissed the said I.D. It is prayed that the Award passed by the Labour Court is liable to be set aside, and the respondent-Corporation be directed to reinstate the petitioner into service with all attendant benefits.

Learned Standing Counsel appearing for the respondent-Corporation contended that the Labour Court had considered the case of the petitioner and came to the conclusion that the disciplinary authority has rightly imposed

the major penalty of removal for the proven misconduct in the enquiry, and dismissed the I.D. It is further contended that since the petitioner has rendered more than 17 years of service, the benefits for which he is entitled from the date of his appointment till the date of removal, will be paid, if not already paid, in accordance with rules, within a reasonable period.

Learned counsel for the petitioner submits that the petitioner is aged about 55 years as on today and he is bedridden and is not in a position to discharge his duties as Conductor.

Since the petitioner is not in a position to discharge his duties, this Court is not inclined to grant any reinstatement order in favour of the petitioner. When the Labour Court had declined to interfere with the order of removal by exercising its power under Section 11-A of the Industrial Disputes Act, 1947, this Court is of the considered view that the petitioner is entitled to the service benefits for the service rendered by him from the date of his appointment till the date of removal as per Regulation 41 of the respondent-Corporation.

Accordingly, the Writ Petition is disposed of directing the respondent-Corporation to pay the benefits to the petitioner for the service rendered by him from the date of his

appointment till the date of removal as per Regulation 41 of the respondent-Corporation, if not already paid, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

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JUSTICE ABHINAND KUMAR SHAVILI

*12<sup>th</sup> September, 2019*

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