

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NOs.10480 & 11923 OF 2016

COMMON ORDER:

These two writ petitions are being disposed of by way of this common order, as the issue raised in these two writ petitions is one and the same.

2. W.P.No.10480 of 2016 is filed by the workman challenging the award, dated 30.12.2015, passed in I.D.No.19 of 2012 on the file of the Industrial Tribunal-cum-Labour Court (for short, 'the Tribunal') insofar as denying the attendant benefits and backwages, whereas W.P.No.11923 of 2016 is filed by the Corporation challenging the very same award, but insofar as setting aside the orders of removal.

3. Heard learned counsel for the parties.

4. For the sake of convenience, the facts in W.P.No.10480 of 2016 are hereunder discussed:

The petitioner-workman was appointed as Driver with the respondent Corporation in the year 1997 and while he was discharging his duties during 2010, he has indulged in an accident. The said conduct of the petitioner was construed as misconduct by the respondents and disciplinary proceedings were initiated against the petitioner. After conducting detailed enquiry, the petitioner was imposed the punishment of removal from service *vide* orders dated 16.09.2011. Challenging the said orders of removal, the petitioner has unsuccessfully preferred appeal and revision. Thereafter, the petitioner filed I.D.No.19 of 2012, under Section 2-A (2) of the Industrial Disputes Act (for short, 'the I.D.Act'),

before the Tribunal and *vide* award dated 30.12.2015, the Tribunal allowed the I.D by setting aside the removal orders and directing the Corporation to reinstate the petitioner into service with continuity of service only, however the petitioner was denied attendant benefits and backwages.

5. Counsel for the workman had contended that the Tribunal ought to have awarded backwages and attendant benefits while setting the orders of removal, therefore, appropriate orders be passed directing the Corporation to pay attendant benefits and backwages by duly modifying the award dated 30.12.2015 in I.D.No.19 of 2012.

6. Standing Counsel appearing for the Corporation had contended that the Corporation filed W.P.No.11923 of 2016 challenging the award passed by the Tribunal in I.D.No.19 of 2012. It is also contended by the Standing Counsel that when the Tribunal has held that the charge levelled against the workman is proved, it ought not to have interfered with the punishment of removal and the writ petition filed by the Corporation be allowed by setting aside the award dated 30.12.2015 passed by the Tribunal in I.D.No.19 of 2012.

7. This Court, having considered the rival submissions of learned counsel for the parties, is of the considered view that the Tribunal had set aside the orders of removal by applying the theory of proportionality in exercise of powers under Section 11-A of the I.D.Act and it was conscious of the fact that it had denied the backwages and attendant benefits to the workman. Therefore, the Tribunal has rightly passed the award dated 30.12.2015. The workman and the Corporation have not

pointed out any grave irregularity or illegality in the award passed by the Tribunal. Thus, this Court is not inclined to interfere with the matters.

8. Accordingly, these writ petitions are dismissed. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

25th September, 2019
v v

