

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.29144 of 2015

ORDER:

This writ petition is filed seeking the following relief :-

“..... to issue writ, order or direction more particularly in the nature of certiorari and call for the records by setting aside the award passed in I.D.No.26/ 2010 dt.03.01.2015 by the Industrial Tribunal-cum-Labour Court, Godavarikhani, as arbitrary, illegal and contrary to law and quash the same.....”.

Heard Si A.Ravi Babu, learned Standing counsel for the petitioners' Corporation and Si A.K.Jaya Prakash Rao, learned counsel for the 1st respondent-workman.

It has been contended by the petitioners' Corporation that the 1st respondent was appointed as a Conductor and while discharging duties as such, as he remained absent unauthorizedly from 23.04.1989 to 15.07.1989, the disciplinary authority had initiated disciplinary proceedings against the 1st respondent and for the proven misconduct, the disciplinary authority vide order dated 02.11.1989 had imposed the punishment of deferment of two increments with cumulative effect. After a lapse of nearly eight years, the 1st respondent has preferred an appeal on 24.03.1997 and on dismissal of the said appeal, the 1st respondent has unsuccessfully preferred a revision and thereafter the same was challenged by way of filing W.P.No.25823 of 2003 and this Court was pleased to dispose of the said writ petition vide order dated 22.06.2009 directing the 1st respondent to pursue his remedies before the Industrial Tribunal. Pursuant to the said order dated 22.06.2009, the 1st respondent workman has raised a dispute before the Conciliation Officer through the Union and thereafter, the Conciliation Officer has submitted a report to the appropriate Government and the appropriate Government has

referred the dispute to the Industrial Tribunal-cum-Labour Court, Godavarikhani. During pendency of the I.D., the appellate authority was pleased to modify the punishment of deferment of two increments from the one of 'with cumulative effect' to that of 'without cumulative effect' vide order dated 04.02.2011 and the Industrial Tribunal vide order dated 03.01.2015 was pleased to further modify the said punishment imposed by the appellate authority directing the petitioners to release consequential arrears of increments and difference of salary to the 1st respondent. Challenging the same, the present writ petition is filed.

Learned Standing Counsel for the petitioners submits that the Labour Court ought not to have further modified the punishment imposed by the appellate authority vide order dated 04.02.2011 and ought not to have directed for release of arrears of increments and difference of salary to the 1st respondent-workman. Learned Standing Counsel, therefore, contends that appropriate orders be passed in the writ petition setting aside the order dated 03.01.2015 passed in I.D.No.26 of 2010 by the Industrial Tribunal.

Learned Counsel appearing for the 1st respondent-workman contends that the Labour Court has rightly modified the appellate authority's order dated 04.02.2011 and directed the petitioners to release consequential arrears of increments and difference of salary to the 1st respondent, as the charges levelled against him are not proved in the enquiry. 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 respective parties, is of the considered view that the appellate authority has modified the punishment imposed by the disciplinary authority vide order dated 04.02.2011 when the I.D. was

pending before the Industrial Tribunal. When the appellate authority had modified the punishment imposed by the disciplinary authority, the only issue pending for adjudication before the Labour Court is about grant of consequential benefits, to which the 1st respondent is entitled to.

A perusal of the order passed by the appellate authority goes to show that earlier the appellate authority has rejected the appeal of the 1st respondent way back in the year 1997 itself and it is not known under what provision of law, the appellate authority has modified the punishment imposed by the disciplinary authority on 02.11.1989 by entertaining the second appeal vide order dated 04.02.2011. Therefore, it is for the petitioners to explain whether the appellate authority has committed any error while entertaining the second appeal and modifying the punishment order imposed by the disciplinary authority. When the appellate authority has modified the punishment of deferment of two increments from the one of 'with cumulative effect' to that of 'without cumulative effect', the Labour Court has only granted consequential benefits in continuation to the appellate authority's order dated 04.02.2011. Therefore, this Court is not inclined to interfere with the order passed by the Industrial Tribunal, which was passed at the instance of the petitioners' Corporation only. Hence, there are no merits in the writ petition and the same is liable to be dismissed.

Accordingly, this writ petition is dismissed. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVIL, J

Date: 01.10.2019
Prv

