

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.8033 of 2013

ORDER

This writ petition is filed seeking the following relief:

“....to issue an appropriate Writ, Order or direction, more particularly one in the nature of Writ of Certiorari calling for the records relating to the impugned order dated 13.03.2012 in I.D. No.11 of 2010 on the file of Industrial Tribunal-I, Hyderabad, published on 11.05.2012 in G.O.Rt. No.475, dated 21.04.2012 by erroneously considering the punishment of reduction of the pay of the 1st respondent by two incremental stages permanently as that of deferment of two incremental stages with cumulative effect and setting aside the order of the punishment imposed against the respondent No.1 by deferring two incremental stages with cumulative effect is set aside and it is modified as deferment of two increments but without cumulative effect and pay the arrears of difference as illegal, arbitrary, unjust and without jurisdiction and consequently quash the same and pass such other order or orders as this Hon'ble Court may deems fit, just and proper in the circumstances of the case.”

Heard Sri N.Vasudeva Reddy, learned Standing Counsel appearing for the respondent-Corporation and Sri V.Narasimha Goud, learned counsel appearing for the 1st respondent-workman.

It is the case of the petitioner-Corporation that the 1st respondent was appointed as a Conductor in the Corporation

on 27.03.1993 and while discharging his duties, he had committed certain cash and ticket irregularities. The disciplinary authority had initiated disciplinary proceedings against the 1st respondent-workman and after conducting regular enquiry for the proven misconduct, imposed the punishment of reduction of pay by two incremental stages for a period of two years with cumulative effect *vide* order dated 19.05.2005. The appeal and the revision preferred by the 1st respondent were rejected. Thereafter, he raised a dispute before the Conciliation Officer. The Conciliation Officer has submitted a failure report to the appropriate Government and the appropriate Government referred the dispute to the Industrial Tribunal-1, Hyderabad. The Tribunal *vide* order dated 13.03.2012 modified the punishment of reduction of pay by two incremental stages for a period of two years with cumulative effect to that of without cumulative effect. Challenging the same, the present writ petition is filed.

Learned counsel appearing for the petitioner-Corporation contended that without appreciating any of the contentions raised by the Corporation, the Tribunal has partly allowed the I.D and modified the punishment of reduction of pay by two incremental stages for a period of two years with cumulative effect to that of without cumulative effect imposed

against the 1st respondent-workman. Therefore, the impugned Award passed by the Tribunal is liable to be set aside.

Learned counsel appearing for the 1st respondent contended that the Tribunal has given a specific finding that the 1st respondent has issued tickets to two of the passengers and one among them was old person and he has lost his ticket and could not produce the same before the checking officials. It is further contended that the in exercise of its powers under the Industrial Disputes Act, 1947, the Tribunal has modified the punishment by applying proportionality theory and that there are no merits in the writ petition and the same is liable to be dismissed.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the view that the Tribunal had specifically given a finding in favour of the 1st respondent to the effect that the 1st respondent has issued tickets to nine passengers and one among them being old, he has lost his ticket and hence, he could not produce the same before the checking officials. Taking into consideration all the aspects, the Tribunal has modified the punishment of reduction of pay by two incremental stages for a period of two years with cumulative effect to that of without cumulative effect by applying proportionality theory. When once the

Tribunal has modified the punishment by applying proportionality theory, unless and until no grave illegality or irregularity has been pointed out, this Court is not inclined to interfere with the Award passed by the Tribunal. There are no merits in the writ petition and the same is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

25th September, 2019
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