

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.29665 of 2017

ORDER:

This writ petition is filed seeking the following relief :-

“..... to call for the records from the Industrial Tribunal, Warangal and issue appropriate Writ, Order or Direction, particularly one in the nature of Writ of Certiorari and quash the Award passed by the Industrial Tribunal, Warangal in I.D.No.79 of 2015 dated 08.03.2017, published on 01.07.2017 in upholding the order of removal passed by the respondent as illegal, unjust, contrary to law and perverse and grant the relief of reinstatement with all consequential benefits; and pass such other.....”

Heard Sri A.K.Jayaprakash Rao, learned counsel for the petitioner and Sri B.Mayur Reddy, learned Standing counsel for the respondents.

It has been contended by the petitioner that he was initially appointed as a Driver on 06.10.1989 in the respondent Corporation and was discharging his duties to the satisfaction of his superiors and everyone concerned. While so, during the month of June, 2008, the petitioner was served with suspension order along with charge sheet dated 18.06.2008 alleging that he was discharging his duty in intoxicated condition. The respondent authorities, without conducting medical examination, had initiated disciplinary proceedings against the petitioner and after conducting a regular enquiry, imposed the punishment of removal from service for the proven mis-conduct, vide proceedings dated 22.08.2008. Against the said order dated 22.08.2008,

petitioner unsuccessfully preferred Appeal, Review and Mercy petitions. Thereafter, he preferred I.D.No.79 of 2015 before the Industrial Tribunal and the Industrial Tribunal vide order dated 08.03.2017 dismissed the said I.D. Challenging the said order dated 08.03.2017 in I.D.No.79 of 2015, the present writ petition is filed.

Learned counsel for the petitioner contends that the Industrial Tribunal failed to appreciate the fact that the respondent Corporation has not subjected the petitioner to medical examination to ascertain as to whether the petitioner was in intoxicated condition while discharging his duties or not; and mechanically dismissed the I.D. preferred by the petitioner. In support of his contention, learned counsel for the petitioner relied on a judgment of this Court in ***J.Durgappa v. Industrial Tribunal-cum-Labour Court, Ananthapur and Anr***¹, wherein this Court allowed the writ petition, observing that without subjecting an employee alleged to have been discharging his duties in a drunken condition, to medical examination, the disciplinary authority cannot initiate disciplinary proceedings against him and accordingly directed the respondents therein to reinstate the petitioner therein into service with all consequential benefits.

Learned counsel for the petitioner further contends that in the instant case also, the respondents have not subjected the petitioner to medical examination to ascertain as to

¹ 1996 (1) ALD 764

whether the petitioner was in intoxicated condition while discharging his duties or not, and on that sole ground, the order of removal is liable to be set aside and the consequential orders passed by the Appellate authority, Reviewing authority and the Industrial Tribunal are also liable to set aside and consequently, the petitioner may be extended the benefit of reinstatement into service. He also contends that as the petitioner has retired from service on attaining the age of superannuation on 30.10.2016 during the pendency of I.D. itself, the respondents may be directed to treat the petitioner as in service till the date of his retirement and extend all the benefits to him.

Learned Standing counsel appearing for the respondents contends that the petitioner is a Driver and admittedly, the disciplinary authority had imposed the punishment of removal from service basing on the findings of Enquiry Officer. The Appellate authority and the Reviewing authority have also considered the facts of the case and confirmed the orders of removal passed by the disciplinary authority. Thereafter, the petitioner could not join the duty due to procedural irregularities in the enquiry conducted by the respondents. The Industrial Tribunal, after considering all these aspects in proper perspective, had passed a reasoned order, dismissing the ID preferred by the petitioner. Therefore, there are no merits in the writ petition and the same is liable to be dismissed.

This Court, having considered the rival submissions of learned counsel for the respective parties, is of the considered view that, except contending that the petitioner was not subjected to medical examination, the petitioner has not pointed out any irregularities in conducting the disciplinary proceedings against him and also not pleaded the denial of the principles of natural justice. However, liberty was given to the petitioner to prove his innocence in the Departmental Enquiry. The Industrial Tribunal has considered all these aspects in proper perspective and rightly rejected the claim of the petitioner. Therefore, this Court is not inclined to entertain the present writ petition so as to interfere with the impugned order dated 08.03.2017 passed by the Industrial Tribunal.

Accordingly, the writ petition is dismissed. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

Date: 29-07-2019
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