

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI**W.P.No.30950 of 2010****ORDER**

This writ petition is filed seeking the following relief:

“.... to issue an appropriate writ order or direction, particularly one in the nature of Writ of Certiorari by calling for records from 3rd respondent in respect of I.D.No.45 of 2005, quash the impugned award dated 19.10.2006 made in I.D.No.46 of 2005, published on 13.07.2007 on the file of the 3rd respondent Labour Court-III, Hyderabad, in not granting any relief as arbitrary and in violation of Art.14,16 and 21 of the Constitution of India and consequently the petitioner pray this Hon'ble Court may be pleased to direct the respondents to reinstate the petitioner into service with continuity of service, attendant benefits and back wages and all other consequential benefits in the interest of justice and fair play.”

Heard Sri V.Narsimha Goud, learned counsel appearing for the petitioner and Sri A.Ravi Babu, learned Standing Counsel appearing for the respondent-Corporation.

It is the case of the petitioner that initially, he was appointed as Conductor in the respondent-Corporation on 22.05.1988 and his services were also regularized. While he was conducting the bus on 20.05.2003 from Kodad to Khammam, a check has been exercised by the checking officials and they noticed that the petitioner had indulged in cash and ticket irregularities. The disciplinary authority has issued disciplinary proceedings against the petitioner. After

conducting enquiry and for the proven misconduct, the petitioner was removed from service *vide* order dated 20-10-2003. Aggrieved by the same, the petitioner has preferred an appeal before the appellate authority, and the appellate authority dismissed the same on 13.4.2004. Challenging the same, the petitioner preferred revision and the same was also dismissed on 6.11.2004. Thereafter, the petitioner raised I.D.No.46 of 2005 before the Labour Court-III, Hyderabad. The Labour Court *vide* order dated 19.10.2006 dismissed the said I.D. Challenging the same, the present writ petition is filed.

Learned counsel appearing for the petitioner contended that the Labour Court ought to have appreciated the evidence and exercised its powers under Section 11-A of the Industrial Disputes Act (for short 'the Act'). The Labour Court, without going into the merits of the case, dismissed the I.D. It is further contended that since the petitioner was aged 34 years only at the time of filing of the writ petition, the Labour Court ought to have modified the punishment to that of appointment afresh.

Learned Standing Counsel appearing for the respondent-Corporation contended that since the charges levelled against the petitioner were proved, the Labour Court

has rightly dismissed the I.D. preferred by the petitioner and it needs no interference by this Court.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the view that the Labour Court ought to have considered the statements given by the passengers before the disciplinary authority and the passengers have specifically stated that the petitioner had not indulged in cash and ticket irregularities. Since the order of removal is disproportionate to that of the charges levelled against the petitioner, the Labour Court ought to have modified the order of removal. The Labour Court ought to have taken into consideration the statements given by the passengers before the disciplinary authority and ought to have interfered with the punishment of removal under Section 11-A of the Act. In order to give quietus to the long pending litigation, and taking into consideration the fact that the petitioner was out of employment for the past 18 years, this Court is of the view that ends of justice would be met if the order of removal is modified to that of appointment afresh.

Accordingly, the Writ Petition is disposed of by modifying the order of removal to that of appointment afresh. The respondent-Corporation is directed to appoint the petitioner afresh, subject to his medical fitness. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

Dt. 23.02.2021
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