

THE HON'BLE THE CHIEF JUSTICE SATISH CHANDRA SHARMA

AND

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT APPEAL No.743 of 2009

JUDGMENT: *(Per Hon'ble Sri Justice Abhinand Kumar Shavili)*

01. This Writ Appeal is filed aggrieved by the order dated 25.01.2008 passed in W.P.No.18470 of 2005 by the learned Single Judge.

02. Heard Sri B.Mayur Reddy, learned Standing Counsel for the appellant-Corporation, learned Government Pleader for Labour appearing for the 2nd respondent and Sri G.Ravi Mohan, learned counsel appearing for the 1st respondent-workman.

03. It is the case of the appellant-Corporation that the 1st respondent was employed as a Conductor and while conducting the bus on 04.04.2002, he had indulged in cash and ticket irregularities. The disciplinary authority construed the same as a misconduct and after conducting a detailed enquiry and for the proven misconduct, has imposed the

punishment of removal from service *vide* order, dated 14.08.2002. Challenging the same, the 1st respondent has preferred I.D.No.86 of 2002 before the 2nd respondent-Industrial Tribunal-cum-Labour Court, Warangal, under Section 2-A (2) of the Industrial Disputes Act, 1947. The 2nd respondent *vide* Award, dated 04.02.2005 while setting aside the removal order dated 14.08.2002, directed the Corporation to reinstate the 1st respondent into service with continuity of service as well as back wages, however, imposed the punishment of postponement of one annual increment with cumulative effect. Challenging the said Award, the Corporation filed W.P.No.18470 of 2005 before this Court. This Court *vide* order, dated 25.01.2008 modified the award dated 04.02.2005 passed in I.D.No.86 of 2002 as follows:

“In the result, the removal order passed on 14.08.2002 is set aside and the respondent-workman is entitled for reinstatement with continuity of service and 25% of back

wages. However, it is made clear that the punishment of stoppage of one increment with cumulative effect is set aside.”

Aggrieved by the said order passed by the learned Single Judge, the Corporation filed the present Writ Appeal.

04. Learned counsel appearing for the appellant had contended that both the 2nd respondent as well as the learned Single Judge failed to appreciate the fact that the charges levelled against the 1st respondent were proved and hence, the disciplinary authority has imposed the punishment of removal against the 1st respondent based on the proven misconduct in the domestic enquiry. Therefore, the Award passed by the 2nd respondent as well as the order passed by the learned Single Judge are liable to be set aside.

05. Learned counsel appearing for the 1st respondent had contended that in pursuance of the Award passed by the 2nd respondent, the 1st respondent was reinstated into service and he also retired from service on attaining the age of

superannuation and insofar as 25% of back wages awarded by the learned Single Judge are concerned, the 1st respondent has withdrawn 12½ % of back wages and the 1st respondent is willing to forego balance 12½ % back wages and let the Award passed by the 2nd respondent as well as the order passed by the learned Single Judge be confirmed.

06. Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that the 2nd respondent has rightly set aside the removal order and the same was rightly confirmed by the learned Single Judge. Since the 1st respondent was reinstated into service in pursuance of the award passed by the 2nd respondent and he also retired from service, and is willing to forego 12½ % back wages, this Court is not inclined to interfere with the same.

07. Accordingly, the Writ Appeal is partly allowed and the order dated 25.01.2008 in W.P.No.18470 of 2005 passed by

the learned Single Judge is modified to the extent that the respondent-workman is entitled to be reinstated into service with 12½ % back wages as the 1st respondent has withdrawn 12½ % back wages. The order passed by the learned Single Judge in respect of remaining all other aspects is confirmed. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

SATISH CHANDRA SHARMA, CJ

ABHINAND KUMAR SHAVILI, J

Date: .02.2022

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