

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**THURSDAY, THE THIRTY FIRST DAY OF AUGUST
TWO THOUSAND AND TWENTY THREE**

PRESENT

**THE HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
THE HONOURABLE SRI JUSTICE ANIL KUMAR JUKANTI**

WRIT APPEAL NO: 459 OF 2022

Writ Appeal under clause 15 of the Letters Patent Filed Against the order Dated - 25/01/2022 in writ petition No.22036 of 2002. on the file of the High Court.

Between:

1. The Depot Manager, Telangana State Road Transport Corporation (TSRTC) (Prior to bifurcation known as APSRTC), Armoor Depot , Nizamabad District.
2. The Deputy Chief Traffic Manager, TSRTC (Prior to bifurcation known as APSRTC), Nizamabad Region, Nizamabad

...APPELLANTS/RESPONDENTS

AND

1. G.Chinnaiah, S/o. Gangaram, C/o. P.Naveen, H.No.5-9-876/18, RTC Colony, Yellamma gutta, Nizamabad – 503009
2. The Presiding Officer, Labour Court - II, 4th Floor, Chandravihar complex, MJ Road, Hyderabad

RESPONDENTS/WRIT PETITIONER

...RESPONDENT/ RESPONDENT

IA NO: 2 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay of all further proceedings pursuant to the order passed by the learned single judge in WP No.22036 of 2002 dated 25.01.2022, pending disposal of the W.A No. /2022

Counsel for the Appellant: SRI. THOOM SRINIVAS (SC FOR TSRTC)

Counsel for the Respondent No.1: SRI K. HARINATH (NOT PRESENT)

Counsel for the Respondent No.2: GP FOR LABOUR

The Court made the following: JUDGMENT

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

AND

THE HON'BLE SRI JUSTICE ANIL KUMAR JUKANTI

Writ Appeal No.459 of 2022

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

Aggrieved by the orders dated 25.01.2022 in W.P.No.22036 of 2002 passed by the learned Single Judge, the present Writ Appeal is filed.

2. Heard Mr. Thoom Srinivas, learned Standing Counsel for TSRTC appearing for the appellants.
3. Learned counsel for the appellants contended that the 1st respondent was working as Conductor with the appellants, since 1986. While, he was conducting bus on 23.01.1997, a check was conducted and it was found that the 1st respondent has indulged in cash and ticket irregularities. The disciplinary authority has constituted the same as misconduct and initiated the disciplinary proceedings and after conducting detailed enquiry, the disciplinary authority for the proven misconduct, has imposed a punishment of removal

from service vide proceedings, dated 06.06.1997. Later, the 1st respondent has preferred the appeal and revision unsuccessfully. Later, the 1st respondent workman has approached the Labour Court by filing I.D.No.94 of 1998 under Section 2-A (2) of the Industrial Act, 1947 and the Labour Court was pleased to pass nil award by dismissing the I.D vide orders, dated 23.10.2001. Aggrieved by the orders passed by the Labour Court, the 1st respondent-workman has approached this Court by filing W.P.No.22036 of 2002 and the learned Single Judge was pleased to allow the writ petition vide orders, dated 25.01.2022 and directed the appellants to reinstate the 1st respondent into service with 50% of backwages without appreciating any of the contentions raised by the appellants.

4. Learned counsel for the appellants further contended that in pursuance to the orders passed by the learned Single Judge, the appellants have subjected the 1st respondent to medical examination

for reinstatement and in the medical examination, the 1st respondent-workman was found unfit to be reinstated into service as Conductor vide proceedings, dated 17.08.2023. Learned counsel for the appellants further submitted that no reasons were given by the learned Single Judge for granting 50% of the backwages, if 50% backwages are paid by the appellants, huge financial constraints will be caused to the appellants. The learned Single Judge has interfered with the punishment of removal on the ground of proportionality, that means the guilt of the 1st respondent was considered and the person, who was guilty of misconduct cannot be paid a premium of 50% of backwages. Therefore, appropriate orders be passed in the writ appeal by setting aside the orders passed by the learned Single Judge in W.P.No.22036 of 2002, dated 25.01.2022 and allow the writ appeal.

5. Learned counsel for the appellants further contended that the punishment of removal was proportionate to the misconduct committed by the

1st respondent-workmen, but the learned Single Judge has erroneously held that the punishment of removal is shockingly disproportionate. Therefore, the orders passed by the learned Single Judge are liable to be set aside.

6. This Court having considered the submissions is of the considered view that the learned Single Judge has interfered with the punishment of removal on the ground that the cash was not checked with the 1st respondent at the time of incident. If only the cash had been checked, the charge levelled against the 1st respondent could not have been proved and the learned Single Judge has also come to a conclusion that the punishment of removal imposed on the 1st respondent-workman was shockingly disproportionate.

7. A perusal of the record further discloses that the appellants wanted to comply with the orders passed by the learned Single Judge by subjecting the 1st respondent to medical examination for reinstatement. However, the 1st respondent-workman was failed in the

medical examination which was conducted on 17.08.2023, which would mean that the appellants were seriously agreed by the orders passed by the learned Single Judge. Now since the 1st respondent-workman has failed in the medical examination which was conducted on 17.08.2023, the ends of justice would be met, if granting 50% of backwages is modified to that of granting 25% of the backwages. The 1st respondent-workman cannot be reinstated. Though the appellants in principle wanted to reinstate the 1st respondent by subjecting medical examination, since the 1st respondent-workman was found unfit in medical examination. Therefore, the 1st respondent-workman, who fought with the appellants for nearly three (3) decades, is entitled for some relief. Though in principle, no reasons were assigned by the learned Single Judge for granting 50% of backwages, now taking into totality of the circumstances, and the 1st respondent workman could not be reinstated into service, though the appellant wanted to reinstate him in pursuance to the orders passed by the learned

Single because, since he was found medically unfit. Therefore, the 1st respondent-workman would be entitled for 25% of the backwages and the orders of the learned Single Judge are modified to this extent.

8. With the above said observations, the Writ Appeal is disposed of. No costs.

9. As a sequel, miscellaneous applications pending if any, shall stand closed.

SD/- CH. VENKATESHWARULU
DEPUTY REGISTRAR
//TRUE COPY//
SECTION OFFICER

To,

1. The Presiding Officer, Labour Court - II, 4th Floor, Chandravihar complex, MJ Road, Hyderabad
2. Two CCs to GP FOR LABOUR ,High Court for the State of Telangana,at Hyderabad [OUT]
3. One CC to SRI. K. HARINATH, Advocate [OPUC]
4. One CC to SRI. THOOM SRINIVAS, (SC FOR TSRTC) [OPUC]
5. Two CD Copies

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GJP

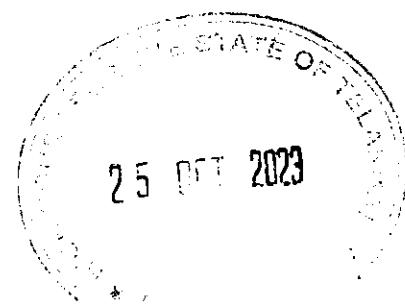
V.V.

HIGH COURT

DATED:31/08/2023

JUDGMENT

WA.No.459 of 2022



**DISPOSING OF THE WRIT APPEAL
WITHOUT COSTS**

⑧ VW
13/10/23