

HON'BLE SRI JUSTICE R.KANTHA RAO

W.P.No.25983 OF 2015

ORDER

Heard learned counsel appearing for the petitioner and learned Standing Counsel appearing for the respondent-Corporation.

This writ petition is filed seeking to declare the impugned proceedings dated 8.11.2010 issued by the 3rd respondent and also the proceedings dated 2.9.2011 of the 2nd respondent as arbitrary and illegal.

The petitioner joined in the respondent-Corporation as Driver in 1999 and his services were regularized with effect from 1.7.2009.

While working in the 3rd respondent depot, an enquiry was initiated against him on the charge that he caused death of a scootorist by his rash and negligent driving, for which he submitted his explanation. The Enquiry Officer recorded a finding that the petitioner is guilty of the charge and the petitioner submitted his written objections. But, without considering the same, the 3rd respondent removed him from service vide proceedings dated 8.11.2010. Aggrieved by the same, the petitioner preferred an appeal, which was rejected vide order dated 27.12.2010. Challenging the same, he preferred revision before the 2nd respondent, who in turn, vide order dated 2.9.2011, ordered reinstatement into service by reducing the pay by one incremental stage for a period of two years which shall have effect on future increments and the interregnum period is treated as not on duty for all purposes. Pursuant to the same, the petitioner joined duty on 1.10.2011. Further, the criminal case registered against him for the offence punishable under Section 304-A IPC ended in acquittal *vide* judgment dated 24.02.2012 in C.C.No.1066 of 2010. Hence, the present writ petition.

Learned counsel appearing for the petitioner submits that the evidence recorded in the enquiry clearly discloses that the petitioner was not at all responsible for the accident and it was caused due to the rash and negligent driving of the scooterist. He further submits that as the petitioner was acquitted of the offence punishable under Section 304-A IPC, on the same set of facts, the punishment imposed against him is liable to be set aside.

Having gone through the evidence which was let in, in the enquiry and also taking into consideration the fact that the petitioner was acquitted of the offence punishable under Section 304-A IPC, this court is of the view that the punishment imposed against the petitioner can be modified.

Consequently, the punishment imposed against the petitioner is modified to that of stoppage of one annual increment without cumulative effect for a period of two years and the interregnum period during which the petitioner was out of employment can be counted for continuity of service, but without any monetary benefits and increments. The petitioner is entitled to claim arrears from the date of receipt of a copy of this order. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

JUSTICE R.KANTHA RAO

30th September, 2015

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