

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.16966 OF 2001

ORDER:

1. This writ petition is filed seeking to issue a writ of mandamus declaring the action of the 2nd respondent-Tribunal in not awarding continuity of service and backwages, and further, in imposing the punishment of deferment of 7 increments with cumulative effect, as illegal, arbitrary and violative of principles of natural justice, and consequently, to direct the 1st respondent to pay the backwages, to award continuity of service and also to restore the 7 increments and pay the benefits.
2. Heard Sri S. Pradeep Kumar, learned Counsel for the petitioner and Sri N. Vasudeva Reddy, learned Standing Counsel for the 1st respondent.
3. It is the case of the petitioner that he was initially appointed as a conductor in the year 1991 and while he was conducting a bus a surprise check was conducted, and it was noticed that some of the passengers were travelling without tickets, and that disciplinary proceedings were initiated against him by placing him under suspension on 14.7.1993 and that on the same day, charge sheet was issued, and that the disciplinary authority appointed an enquiry officer to enquire into the charges and that the enquiry officer conducted a detailed enquiry and submitted a report holding that the charges levelled against the petitioner were proved, and that the disciplinary authority had issued a show cause notice to him on 1.12.1993, for which he submitted his explanation, and that having not satisfied with the said explanation, the disciplinary authority imposed penalty of removal from service vide order dated 31.1.1994 and challenging the same, he filed I.D.No.194 of 2000 on the file of the 2nd respondent and

the 2nd respondent after considering the entire case had passed the award and modified the punishment of removal to that of reinstatement into service without backwages and continuity of service, while imposing punishment of deferment of seven increments with cumulative effect. Challenging the award of the 2nd respondent only to the extent of denying backwages, continuity of service and imposition of punishment of deferment of 7 increments with cumulative effect, the present writ petition is filed.

4. Learned Counsel for the petitioner submitted that the charges levelled against the petitioner are trivial in nature and that the punishment of deferment of seven increments imposed by the 2nd respondent while denying the backwages and continuity of service is excessive and disproportionate to the misconduct with which the petitioner was charged, and therefore, the award passed by the 2nd respondent warrants interference by this Court in that regard.

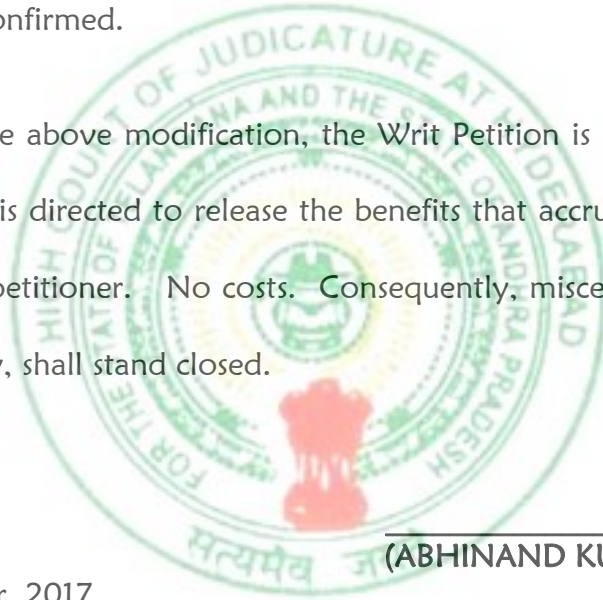
5. Learned Counsel for the 1st respondent submits that the petitioner had been removed from service for proven misconduct in the enquiry and that the 2nd respondent had modified the said punishment of removal to that of deferment of seven annual increments with cumulative effect and that the petitioner was also reinstated into service and he retired from service and therefore, there is no need to interfere with the award passed by the 2nd respondent.

6. After hearing the rival submissions made by both the Counsel and after perusing the material on record, this Court is of the view that the punishment of deferment of seven increments with cumulative effect, imposed by the 2nd respondent while modifying the punishment of removal

to that of reinstatement, is too harsh. In view of the same and in view of the fact that the petitioner has already retired from service, this Court feels it appropriate that if the said punishment of deferment of seven increments with cumulative effect is modified to that of deferment of seven increments without cumulative effect, the petitioner would have some pensionary benefits.

7. Accordingly, the punishment of deferment of seven (7) increments with cumulative effect imposed by the 2nd respondent, is modified to that of deferment of seven (7) increments without cumulative effect. Rest of the award is confirmed.

8. With the above modification, the Writ Petition is disposed of. The 1st respondent is directed to release the benefits that accrue in terms of this order, to the petitioner. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.



(ABHINAND KUMAR SHAVILI,J)

28th November, 2017
Nn

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