

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 22340 of 2001

ORDER:

This writ petition is filed seeking a writ of certiorari to call for the records from the 1st Respondent relating to and connected with the impugned Proceedings No.19(118)/ 94, dated 22.12.1994, whereby the petitioner was denied the continuity of service and back-wages, and declare the same as arbitrary and illegal.

2. Heard Sri H. Srinivasa Rao, counsel for the petitioner and Sri N.Vasudeva Reddy, Standing Counsel for the Respondent Corporation.

3. Learned counsel for the petitioner submits that the petitioner was appointed as Conductor on casual basis during the year 1998 and his services were regularized with effect from 01.10.1988. While so, the Petitioner fell sick during November 1992 and he had to apply for medical leave, but the Corporation has construed the said absence of the petitioner as misconduct and initiated departmental proceedings by issuing a charge sheet on 16.01.993. A regular departmental enquiry was conducted and the Respondent-Corporation had removed the petitioner from service for the proven misconduct of absence, vide the Orders dated 21.10.1994. The petitioner has preferred an appeal to the appellate authority, and the appellate authority, vide orders dated 22.12.1994, had directed reinstatement of the petitioner into service afresh without continuity of service and back-wages.

The learned counsel further submits that the appellate authority could set aside the original punishment order, reduce, confirm or enhance the punishment, but cannot impose a punishment, which is not enumerated in the Regulations. In the instant case, the appellate authority has set aside the orders of removal and imposed a punishment of fresh appointment without continuity of service and back-wages.

4. The learned counsel for the petitioner has relied upon a Circular said to have been issued by the Corporation dated 02.06.1982 wherein the Corporation has issued strict confidential instructions to all the appellate authorities to follow the Regulations and not to deviate and impose some other punishments, which are not enumerated in the Regulations.

5. The learned Standing Counsel appearing for the Respondents submits that the appellate authority has taken a lenient view and modified the punishment of removal to that of fresh appointment, without continuity of service and back-wages, and the same needs no interference.

6. I have considered the rival submissions made by the parties. The petitioner was initially appointed in 1988 and was removed from service on 21.10.1994. By this modified punishment orders passed by the appellate authority, the petitioner would be deprived of six years of his past service. The appellate authority had rightly taken a lenient view and set aside the orders of removal from service, but imposed the punishment of appointment afresh. Thus, the service rendered by the Petitioner from 1988 to

1994 has been completely ignored. In my considered opinion, if the said six years of past service is counted for the purpose of pensionary benefits, it would meet the ends of justice. Hence, the service of six years rendered by the petitioner is to be counted for the purpose of pensionary benefits, and not for any other purpose, such as seniority, promotion etc.

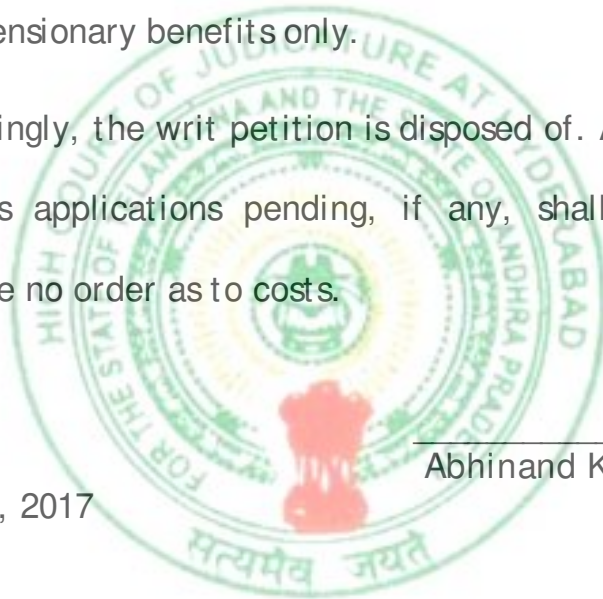
7. Accordingly, the punishment imposed by the appellate authority is modified to the extent that the service rendered by the Petitioner from 1988 to 1994 should be counted for the purpose of pensionary benefits only.

8. Accordingly, the writ petition is disposed of. As a sequel, the miscellaneous applications pending, if any, shall stand closed. There shall be no order as to costs.

December 21, 2017

Kv

Abhinand Kumar Shavili, J



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December 21, 2017

Kv