

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.25385 OF 2002

ORDER

This writ petition is filed seeking the following relief:

“.... to issue an order, direction or writ more particularly one in the nature of Writ of Mandamus declaring the action of the 1<sup>st</sup> respondent in issuing the proceedings No.PA/20(22)/2002-RM/NLG, dt. 25.09.2002 in so far as imposing punishment of deferment of annual increments for a period of three (3) years and treating the period of removal to till reinstatement as ‘not on duty’ as illegal, arbitrary and unjust and consequently direct the respondents to grant three (3) annual increments and treat the petitioner services as continuous from the date of termination to till the date of reinstatement and pass such other order or orders as this Hon’ble Court may deems fit and proper under the circumstances of the case.”

Heard Sri G.V.Ravi Mohan, learned counsel appearing for the petitioner, and Sri A.Ravi Babu, learned Standing Counsel appearing for the respondent-Corporation.

It is the case of the petitioner that he was appointed as Driver in the respondent-Corporation in the year 1988 and was discharging his duties as such. While so, due to his ill-health, he applied for leave on 23.9.99 and thereafter, un-authorizedly absented to his duties. This incident was construed as a misconduct, the disciplinary authority, after conducting detailed enquiry, and for the proven misconduct, terminated him from service *vide* order dated 5.6.2000.

Challenging the same, the petitioner preferred an appeal before the appellate authority. The appellate authority rejected the same *vide* order dated 20.07.2002. Aggrieved by the same, he preferred review before the 1<sup>st</sup> respondent-reviewing authority. The 1<sup>st</sup> respondent *vide* order dated 25.09.2002 while setting aside the termination order, imposed the punishment of deferment of annual increment for a period of three years with cumulative effect and treated the period of removal till reinstatement 'as not on duty'. Challenging the same, the present writ petition is filed.

Learned counsel appearing for the petitioner submits that without conducting any enquiry, the disciplinary authority had imposed the punishment and that the reviewing authority, while setting aside the termination order, ought not to have imposed the punishment of deferment of annual increment for a period of three years with cumulative effect.

Learned Standing Counsel appearing for the respondent-Corporation contends that the disciplinary authority had rightly imposed the punishment against the petitioner and the reviewing authority had rightly set aside the termination order and imposed the punishment of deferment of annual increment for a period of three years with

cumulative effect, and hence, no interference is called for by this Court.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that while setting aside the termination order, the reviewing authority ought not to have imposed the punishment of deferment of annual increment for a period of three years with cumulative effect. Therefore, this Court feels that ends of justice would be met if the punishment of deferment of annual increment for a period of three years with cumulative effect is modified to that of without cumulative effect.

Accordingly, the Writ Petition is disposed of. The order dated 25.09.2002 passed by the 1<sup>st</sup> respondent-reviewing authority is modified to that of deferment of annual increment for a period of three years without cumulative effect. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

---

JUSTICE ABHINAND KUMAR SHAVILI

*4<sup>th</sup> October, 2018*  
*rkk*

