

THE HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO. 16670 of 2003

ORDER:

This writ petition is filed seeking the following relief:

“For the reasons stated in the accompanying affidavit, the petitioner prays that this Hon’ble court may be pleased to issue an appropriate writ or direction, particularly one in the nature of WRIT OF CERTIORARI and quash the impugned award dt. 06/07/2001 made in I.D.No.45/98 published on 30/08/2001 in so far as denying the back-wages, stopping of (5) annual grade increments after reinstatement, and not granting the consequential benefits as arbitrary, unjust and in violation of principles of natural justice and consequently direct the 2nd respondent Corporation to pay back-wages along with all consequential benefits in the interest of justice and fair play”.

Heard Sri V.Narsimha Goud, the learned counsel for the petitioner and the learned Standing Counsel for TSRTC.

The brief facts are that the petitioner joined the services of the 2nd respondent as Driver on 02-02-1986 and worked till he was removed from the service by the 2nd respondent, vide order dated 14-04-1998. While making night out at Chikurthy, he driven the bus in intoxication condition and hit the bus to a current pole and stucked up the vehicle in a ditch at Nyalkal, without service conductor on 23-10-1997. Aggrieved by the removal orders dated 14-04-1998, the petitioner preferred I.D.No.45 of 1998 under Section 2-A(2) of Industrial Disputes Act, 1947. By order dated 6-7-2001, the Labour Court-II, Hyderabad was pleased to allow ID in part

and the removal order dated 14-04-1998 was set aside and directed the respondent to reinstate the petitioner into service with continuity of service but without back wages and on such reinstatement, the annual increments of the petitioner shall be stopped for five years with cumulative effect. Challenging the same, the petitioner filed the present writ petition only to the extent of withholding of five increments with cumulative effect.

Learned counsel for the petitioner contended that the award of the Tribunal may be modified to that of withholding of five increments without cumulative effect instead of with cumulative effect.

Learned Standing Counsel for the respondent-Corporation contended that since the Labour Court had modified the major punishment of removal to that of withholding of five increments with cumulative effect, it should be understood that another major penalty of withholding of five increments with cumulative effect has been imposed by the Labour Court and accordingly, the Corporation had imposed the punishment of withholding of five increments with cumulative effect.

Having considered the rival contentions of the parties, this Court is of the considered view that the modified punishment of removal to that of withholding of five increments with cumulative effect is too harsh. Therefore, ends of justice would be met if a clarification is given by this Court that withholding of five increments should be understood as without cumulative effect. Therefore, the respondent-Corporation is directed to treat the modified punishment imposed by the Tribunal as that of withholding of five increments without cumulative effect.

In view of the above, the Writ Petition is allowed to the extent of withholding of five increments without cumulative effect and the respondent-Corporation is directed to grant notional benefits to the petitioner without any monetary benefits. No order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

ABHINAND KUMAR SHAVILI, J

17th December, 2018

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