

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P. No.18422 of 2004ORDER:

This writ petition is filed seeking the following relief:

“To quash the impugned award dated 17.04.2003 made in I.D.No. 197 of 1989, published on 08.07.2003, insofar denying the back wages, stoppage of (3) increments with cumulative effect after reinstatement, and observing that he is not entitled for consequential benefits as illegal, unjust, in violation of principles of natural justice and consequently direct the respondents to arrange all the consequential benefits, including the back wages in the interest of justice and fair play.”

2. Heard the counsel for the petitioner and the Standing Counsel for the Respondent-Corporation.

3. It has been contended by the petitioner that he was initially appointed as a Conductor and while he was discharging his duties, during May, 1989, it has been alleged that he had indulged in cash and ticketing irregularities. The disciplinary authority has construed the same as misconduct and initiated disciplinary proceedings, and after conducting detailed enquiry and for the proven misconduct, the petitioner was removed from service, vide orders dated 25.08.1989. Thereafter, the petitioner has filed I.D.No. 197/ 89 under Section 2-A(2) of the Industrial Disputes Act, and the Industrial Tribunal was pleased to set aside the orders of removal; however, while granting relief, denied monetary benefits, and directed that the petitioner be appointed afresh, and the punishment of deferment of three annual increments with cumulative

effect be imposed on the petitioner after issuing fresh appointment. Challenging the same, the present writ petition is filed.

4. The counsel for the petitioner contends that the Industrial Tribunal erred in awarding a major punishment of deferment of three annual increments with cumulative effect by setting aside another major punishment of removal from service, and that the Industrial Tribunal ought to have modified the punishment of removal from service to a minor punishment after the petitioner was appointed afresh. Therefore, contends that appropriate orders be passed by setting aside that portion of the order passed by the Industrial Tribunal, wherein the Industrial Tribunal had imposed the punishment of deferment of three annual increments with cumulative effect.

5. The Standing Counsel for the respondents contended that the Industrial Tribunal has rightly inflicted the punishment of deferment of three annual increments with cumulative effect and as the petitioner could not point out any major irregularity or illegality in the order passed by the Industrial Tribunal, this Court should not normally interfere with the orders passed by the Industrial Tribunal, and there are no merits in the writ petition and the same is liable to be dismissed.

6. This Court, having considered the said submission, is of the considered view that the Industrial Tribunal could have imposed the punishment of deferment of three annual increments without cumulative effect that would have met the ends of justice, because the petitioner was already facing a major penalty of removal from service. However, instead of modifying the major punishment of removal from service to a minor punishment, the Industrial Tribunal modified the major punishment of removal from service to another major punishment of

deferment of three annual increments with cumulative effect. The Industrial Tribunal had already denied back wages to the petitioner, with a direction that the petitioner be appointed afresh. If the orders of the Industrial Tribunal are to be sustained, then the petitioner would be inflicted with a punishment of denial of back wages and deferment of three annual increments, that too, with cumulative effect. It would be multiplicity of punishments on the petitioner. Therefore, this Court is of the considered view that the punishment of deferment of three annual increments with cumulative effect imposed by the Industrial Tribunal is too harsh a punishment, and is liable to be modified.

7. Accordingly, the writ petition is disposed of, modifying the punishment of deferment of three annual increments with cumulative effect to that of deferment of three annual increments without cumulative effect. The rest of the Award passed by the Industrial Tribunal is confirmed. There shall be no order as to costs. Miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

Date: 20.12.2018
DMG