

**HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI**

**WRIT PETITION No. 23796 of 2002**

**ORDER:**

This writ petition is filed seeking a writ of certiorari calling for the records in connection with I.D.No.13 of 1998 on the file of the 2<sup>nd</sup> respondent - Labour Court and quash the award dated 08.11.1999 passed in the said I.D., only to the extent of withholding of three increments with cumulative effect and not granting back wages and attendant benefits.

Heard learned counsel for petitioner and learned Standing Counsel for the 1<sup>st</sup> respondent corporation.

The brief facts are that the petitioner was appointed as Conductor in the respondent Corporation and while he was discharging his duties on 29.10.1995 the officials of the respondent corporation conducted a check and found that he had indulged in cash and ticket irregularities. The respondent corporation construed his conduct as misconduct and after initiating disciplinary proceedings and after conducting a regular enquiry, the disciplinary authority imposed on him punishment of removal from service vide orders dated 21.03.1996. Challenging the said orders, he filed I.D.No.13 of 1998 on the file of the 2<sup>nd</sup> respondent-Labour Court under Section 2-A(2) of Industrial Disputes Act, 1947. By order dated 08.11.1999, the Labour Court was pleased to pass order in his favour by setting aside the order of removal and directed the respondent Corporation to

reinstate him into service with continuity of service, but without back wages and attendant benefits. Further, the Labour Court imposed the punishment of withholding of three annual increments with cumulative effect. Challenging the same, he filed the present writ petition only to the extent of withholding of three increments with cumulative effect and denial of back wages and attendant benefits.

Learned counsel for the petitioner contended that the Labour Court cannot impose alternative punishment of withholding of three annual increments with cumulative effect while setting aside the orders of removal and further contended that the petitioner is also entitled for back-wages and attendant benefits.

Learned Standing Counsel for the respondent Corporation contended that the Labour Court had rightly modified the major punishment of removal to that of reinstatement of the petitioner into service with continuity of service and withholding of three increments with cumulative effect and, therefore, no interference is called for from this Court.

Having considered the rival contentions of the parties, this Court is of the considered view that the while setting aside the orders of removal, the Labour Court ought not to have imposed the punishment of withholding of three increments with cumulative effect. Therefore, ends of justice would be met if the order of the

Labour Court to the extent of withholding of three increments with cumulative effect is modified to that of without cumulative effect.

In view of the above, the Writ Petition is partly allowed and the order of the Labour Court to the extent of withholding of three increments with cumulative effect is modified to that of without cumulative effect and the respondent Corporation is directed to grant notional benefits to the petitioner without any monetary benefits.

Consequently, miscellaneous petitions, if any, pending in the writ petition shall stand closed. No order as to costs.

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**ABHINAND KUMAR SHAVILI, J**

11<sup>th</sup> December, 2018  
cbs



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(partly allowed)

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