

THE HONOURABLE SMT JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.10684 of 2002

ORDER

This writ petition is filed seeking a writ of certiorari calling for the records in connection with I.D.No.5 of 1993 on the file of Industrial Tribunal-cum-Labour Court, Godavarikhani and quash the award dated 25.06.1996 passed in the said I.D., only to the extent of withholding of three increments and not granting back-wages.

2. Heard Sri G. Ravi Mohan, learned counsel for petitioner and Sri A. Ravi Babu, learned Standing Counsel for TSRTC.

3. The brief facts are that the petitioner was appointed as Driver in the respondent Corporation on 12.12.1983 and that on 11.08.1991, while driving the bus, he caused an accident and thereupon, the respondent Corporation had initiated disciplinary proceedings against him alleging misconduct. After conducting regular enquiry, the petitioner was removed from service vide order dated 21.04.1992. Challenging the said order, the petitioner preferred an appeal and the appellate authority has rejected the same. Aggrieved by the same, the petitioner preferred I.D.No.5 of 1993 under Section 2-A(2) of Industrial Disputes Act, 1947. By order dated 25.06.1996, the Industrial Tribunal was pleased to pass order in favour of the petitioner by setting aside the order of removal and directed the respondent Corporation to reinstate the petitioner with continuity of service and attendant benefits in respect of increments only without any back-wages while ordering withholding of three

increments by way of penalty. But the respondent Corporation imposed the punishment of withholding of three increments with cumulative effect and without back-wages. Challenging the same, the petitioner filed the present writ petition only to the extent of withholding of three increments with cumulative effect.

4. Learned counsel for the petitioner contended that though the Tribunal has not specifically ordered withholding of three increments with or without cumulative effect, the respondent Corporation cannot impose alternative punishment of withholding of three increments with cumulative effect and further contended that the petitioner is also entitled for back-wages.

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

6. Having considered the rival contentions of the parties, this Court is of the considered view that when the Tribunal modified the punishment of removal to that of withholding of three increments, it should be understood as that of 'without cumulative effect, and the respondent Corporation cannot insert certain words in the order and convert the punishment of withholding of three increments with

cumulative effect. Ends of justice would be met if a clarification is given by this Court that withholding of three 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 three increments without cumulative effect.

7. In view of the above, the Writ Petition is allowed to the extent of withholding of three 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.

13th August, 2018

sj

ABHINAND KUMAR SHAVILI, J

