

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.25281 OF 2009

ORDER:

1. This writ petition is filed seeking to issue a writ of Mandamus declaring the action of the respondents in imposing the punishment to the effect that the petitioner's pay shall be fixed in the minimum time scale of ADC i.e., Rs.4,790/- besides treating the intervening period from the date of removal till he reports for duty as 'not on duty' for the purposes like leave and increments, vide proceedings dated 26.7.2007 while considering the removal order dated 26.6.2006, as illegal and arbitrary, and consequently, to direct the respondents to pay the arrears of deferred salary forthwith to the petitioner.

2. Heard Sri S.M. Subhan, learned Counsel for the petitioner and Sri S.V. Ramana, learned Standing Counsel for the respondent-Corporation.

3. It is the case of the petitioner that he was appointed as conductor in the year 1984 and promoted as Assistant Depot Clerk and while he was working as such, on 1.12.2006 it was alleged that he had indulged in cash irregularities and misappropriation. The disciplinary authority initiated disciplinary enquiry against the petitioner, and after completion of the enquiry, the disciplinary authority imposed punishment of

removal from service on the petitioner. The petitioner unsuccessfully preferred appeal and thereafter, he filed review. The reviewing authority set aside the punishment of removal and passed the following order:

(i) The petitioner Sri B. Veera Swamy, E. 451535, Ex-Assistant Depot Clerk of Palasa Depot be reinstated into service and posted to Palakonda Depot without back wages and with continuity of service;

(ii) As a measure of punishment, the Pay of the petitioner be fixed at minimum pay of Assistant Depot Clerk at the rate of Rs.4,790/- and fix his basic pay accordingly;

(iii) Annual increments will be given to him starting right from pay of Rs.4,790/- onwards subject to eligibility;

(iv) The period from the date of removal till he reports for duty at Palakonda depot on reinstatement be treated as 'not on duty' for the purpose of leave and increments;

Challenging the denial of back wages, continuity of service and the above terms viz., (ii) to (iv), the petitioner filed this writ petition.

4. It has been contended by the petitioner that the reviewing authority ought to have taken a lenient view and modified the punishment of removal to that of reinstatement with continuity of service and back wages without imposing any further punishment.

5. It has been contended by the learned Standing Counsel for the respondent-Corporation that the reviewing authority has already taken a lenient view and therefore, the order of the

reviewing authority does not warrant any interference by this Court.

6. This Court having considered the submissions made by the parties and the nature of the allegations levelled against the petitioner, is of the view that the reviewing authority has already taken a lenient view. No illegality or irregularity has been pointed out by the petitioner in the order of the reviewing authority. Therefore, this Court is not inclined to interfere with the order of the reviewing authority dated 26.7.2007.

7. Accordingly, the Writ Petition is dismissed. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.



JUSTICE ABHINAND KUMAR SHAVILI

Dated: 17th September, 2018.
Nn.

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

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17/09/2018

Nn.