

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI**WRIT PETITION No.22837 OF 2008****ORDER**

1. This writ petition is filed seeking the following relief:

“.... to issue an order, direction or writ more particularly one in the nature of Writ of Mandamus declaring the action of the 1st respondent in issuing proceedings dated 19.2.2007 insofar as imposing punishment of reduction of basic pay by one incremental stage for a period of one year with cumulative effect, as illegal, arbitrary and unjust, and consequently, to set aside the same and to grant increments to the petitioner by treating the suspension period as 'On Duty' and pass such other order or orders as this Hon'ble Court may deem fit and proper under the circumstances of the case.”

2. Heard Sri G. Ravi Mohan, learned Counsel for the petitioner and the learned Standing Counsel for the respondents.

3. It is the case of the petitioner that he was appointed as cleaner in the year 1973 in the respondent-Corporation and thereafter, he was promoted as Welder in the year 1975 and then, to the post of Leading Hand in the year 1991 and later, he was promoted as Deputy Superintendent (Mechanical) in the year 2002. While so, on 25.3.2006, the petitioner was allotted work of checking air pressure in the vehicles. Thereafter, on the allegation that he was found sleeping while on duty, a

charge memo was issued to him. The disciplinary authority after conducting enquiry on the said allegation imposed punishment of reduction of pay of the petitioner by two incremental stages for a period of two years with cumulative effect and treated the period of suspension as 'Not on Duty'. Aggrieved by the same, the petitioner filed appeal. The appellate authority modified the punishment imposed by the disciplinary authority to that of reduction of pay by one incremental stage for a period of one year with cumulative effect. Thereafter, the petitioner filed review and the said review was rejected. Challenging the same, the present writ petition is filed.

4. Learned Counsel for the petitioner contends that without giving any opportunity to the petitioner, the disciplinary authority imposed punishment of reduction of pay of the petitioner by two incremental stages and that the appellate authority ought to have set aside the same.

5. Learned Standing Counsel for the respondent-Corporation contends that the appellate authority has already taken a lenient view and modified the punishment of the disciplinary authority and hence, no interference is called for by this Court.

6. Having considered the rival submissions made by the learned Counsel on either side, this Court is of the considered view that the appellate authority while reducing the punishment imposed by the disciplinary authority, ought to have modified the punishment of reduction of pay by one incremental stage for a period of one year, atleast without cumulative effect. Therefore, this Court feels that ends of justice would be met if the punishment of reduction of basic pay by one incremental stage for a period of one year with cumulative effect is modified to that of without cumulative effect.

7. Accordingly, the Writ Petition is disposed of modifying the punishment of reduction of basic pay by one incremental stage for a period of one year with cumulative effect imposed by the appellate authority on the petitioner, to that of reduction of basic pay by one incremental stage for a period of one year without cumulative effect and without monetary benefits. The order impugned is modified to the above extent only. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

25th October, 2018
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HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.22837 OF 2008



25.10.2018

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