

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 27038 of 2005

O R D E R:

The present writ petition is filed seeking writ of *Certiorari* calling for records pertaining to and connected with the Award dated 14.09.2001, passed in ID No.274 of 1998 on the file of respondent No.1, and quash the same as illegal and arbitrary.

2. The brief facts of the case are that the petitioner was appointed as Conductor in the year 1991 and posted at Jammalamadugu Depot. While he was working as such, on 29.04.1997, a check was exercised by the Enforcement squad, Kadiri on the bus and found cash and ticket irregularities and the checking officials recorded the statements of the passengers and service conductor. Thereafter, the Corporation initiated disciplinary proceedings against him. After conducting domestic enquiry, a charge sheet was issued by framing certain charges against the petitioner. During enquiry, the said charges were proved and accordingly, enquiry report was submitted by the enquiry officer. Basing on the enquiry report, was removed from service vide terminaton order dated 27.02.1998. The petitioner

being unsuccessful in the appeal and review filed before respondent authorities vide orders dated 06.06.1998 and 07.08.1998 respectively, preferred ID No.274 of 1998 before respondent No.1- Labour Court, wherein the Presiding Officer set aside the termination order dated 27.02.1998 and directed respondent authorities to issue fresh appointment to the petitioner by deferring three annual increments with cumulative effect. Aggrieved by the same, the present writ petition is preferred by the petitioner-workman.

3. Heard learned counsel for petitioner and learned Standing Counsel for respondent-Corporation and perused the material available on record.

4. The learned counsel for petitioner would contend that the labour Court by applying proportionality theory ought not to have ordered deferment of three annual grade increments with cumulative effect.

5. On the other hand, learned Standing Counsel for respondent-Corporation would contend that the labour court while exercising its powers under Section 11-A of the Industrial Disputes Act, had interfered with the punishment on the ground of proportionality

theory. Therefore, the tribunal is justified in directing deferment of three annual grade increments with cumulative effect on the petitioner and no interference is called for.

6. The main allegation leveled against the petitioner is cash and ticket irregularity and that he failed to observe the rule "issue and Start" and that the charges were proved against the petitioner.

7. Having heard the rival contentions of both the counsel, and on perusal of the oral and documentary evidence, this court is of the considered view that ends of justice would be met if proportionality theory is applied and penalty of three annual grade increments with cumulative effect is modified to that of without cumulative effect. However, the petitioner shall not be entitled for any monitory benefits. The rest of the order passed by respondent No.1 shall stand good.

8. With the above observations, the writ petition is disposed of
No costs.

9. Miscellaneous Petitions, if any, pending in this writ Petition shall stand closed.

ABHINAND KUMAR SHAVILI, J

04.10.2018
MjI/*