

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.25682 of 2007

ORDER:

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 3rd respondent insofar as imposing punishment annual increments were withheld for a period of two years with cumulative effect and also from the date of suspension till the date of reinstatement shall be treated as leave due to the petitioner in his proceedings No.PA/19(148)/02-DVM dt.28.10.2002 and also the proceedings No.PA/19(111)/2003-RM-Q dt.09.06.2003 issued by the 2nd respondent is illegal, arbitrary and unjust and consequently set aside the same and direct the respondents to grant increments to the petitioner and treat the suspension period as On Duty and pass such further other order or orders as this Hon'ble court may deem fit and proper under the circumstances of the case.”

Heard Si G.Ravi Mohan, learned counsel for the petitioner and Si A.Rama Rao, learned standing counsel for the respondent corporation.

It has been contended by the petitioner that he was appointed as Driver in the respondent corporation in the year 1994. While he was discharging his duties during March, 2002, it was alleged that he was driving the bus in a drunken condition and the said act of the petitioner was construed as misconduct and conducted regular departmental enquiry and after conducting regular departmental enquiry, he was removed from service vide orders dated 21.8.2002 for the proven misconduct. The petitioner

had preferred an appeal and the appellate authority vide orders dated 28.10.2002 had modified the punishment of removal to that of deferment of annual increments for a period of two years with cumulative effect. Thereafter, the petitioner had preferred review and the same was rejected on 9.6.2003. Challenging the same, the present writ petition is filed.

It has been contended by the learned counsel for the petitioner that the petitioner was not subjected to medical test so as to ascertain whether the petitioner was driving the bus in a drunken state. Apart from that, the modified punishment of removal to that of deferment of annual increments for a period of two years with cumulative effect is too harsh and this is the only incident that has happened in his career. Learned counsel further contended that the appellate authority ought to have taken a lenient view and imposed a punishment of deferment of annual increments for a period of two years without cumulative effect.

Learned standing counsel for the respondent corporation had contended that the charges framed against the petitioner are very serious in nature and the disciplinary authority had imposed the punishment of removal for the proven misconduct in the enquiry. Learned standing counsel further contended that the appellate authority had taken a lenient view and no further lenient view can be taken and the writ petition is liable to be dismissed.

This Court having considered the submission made by both the parties is of the considered view that this is the only allegation in the entire career of the petitioner and the appellate ought to have imposed a punishment of deferment of annual increments for a

period of two years without cumulative effect instead of with cumulative effect. Therefore, ends of justice would be met if the punishment imposed by the appellate authority is modified to that of deferment of annual increments for a period of two years without cumulative effect instead of with cumulative effect.

Accordingly, the Writ Petition is disposed of modifying the punishment imposed by the appellate authority to that of deferment of annual increments for a period of two years without cumulative effect. It is made clear that the above modified punishment is without any monetary benefits. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVIL, J

Date: 03/10/2018
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