

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 14931 of 2003

ORDER:

This writ petition is filed seeking a writ of certiorari calling for the records in connection with I.D.No.287 of 1999 on the file of the 2nd respondent - Labour Court and quash the award dated 29.04.2002 passed in the said I.D., only to the extent of reduction of pay by five incremental stages with cumulative effect and not granting continuity of service, back wages and attendant benefits.

Heard learned counsel for petitioner and learned Standing Counsel for the 1st respondent corporation.

It has been contended by the petitioner that he was appointed as Driver in the respondent Corporation in the year 1994. While so, he was issued with a charge sheet dated 11.05.1998 on the allegation that he drove the vehicle in a drunken condition and caused loss of revenue to the corporation. The respondent corporation construed his conduct as misconduct and after initiating disciplinary proceedings and after conducting a regular enquiry, the disciplinary authority imposed on him punishment of removal from service vide orders dated 29.09.1998. Challenging the said orders, he unsuccessfully preferred an appeal and thereafter filed I.D.No.287 of 1999 on the file of the 2nd respondent-Labour Court under Section 2-A(2) of Industrial Disputes Act, 1947. By award dated 29.04.2002, the Labour Court set aside the orders of removal and directed the respondent corporation to

issue fresh appointment to the petitioner. Further, the Labour Court imposed punishment of reduction of pay by five incremental stages with cumulative effect. Challenging the same, he filed the present writ petition only to the extent of reduction of pay by five incremental stages with cumulative effect and denial of continuity of service, back wages and attendant benefits.

Learned counsel for the petitioner contended that the Labour Court cannot impose alternative punishment of reduction of pay by five incremental stages with cumulative effect while setting aside the orders of removal and further contended that the petitioner is also entitled for continuity of service, back-wages and attendant benefits.

Learned Standing Counsel for the respondent Corporation contended that the Labour Court had rightly modified the major punishment of removal to that of reinstatement of the petitioner into service as fresh recruit and reduction of pay by five incremental stages with cumulative effect and, therefore, no interference is called for from this Court.

Having considered the rival contentions of the parties, this Court is of the considered view that the while setting aside the orders of removal, the Labour Court ought not to have imposed the punishment of reduction of pay by five incremental stages with cumulative effect. Therefore, ends of justice would be met if the order of the Labour Court to the extent of reduction of pay by five

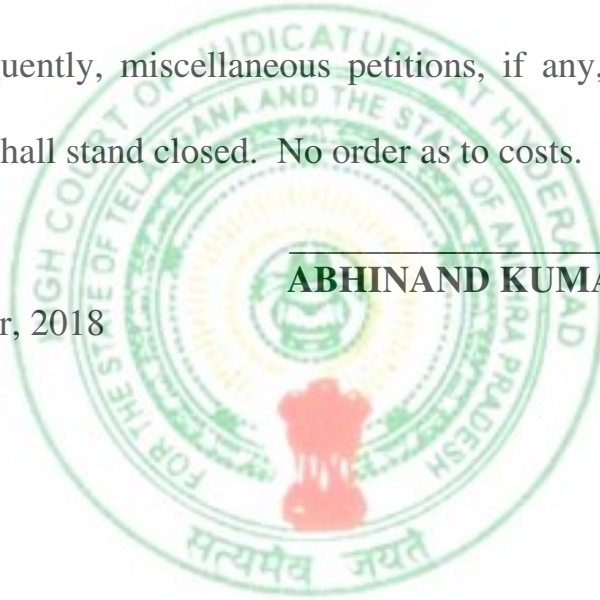
incremental stages with cumulative effect is modified to that of without cumulative effect.

In view of the above, the Writ Petition is partly allowed and the award of the Labour Court to the extent of reduction of pay by five incremental stages with cumulative effect is modified to that of without cumulative effect and the respondent Corporation is directed to grant notional benefits to the petitioner without any monetary benefits.

Consequently, miscellaneous petitions, if any, pending in the writ petition shall stand closed. No order as to costs.

15th December, 2018
cbs

ABHINAND KUMAR SHAVILI, J



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Writ Petition No. 14931 of 2003
(allowed partly)

15th December, 2018

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