

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.21433 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 proceedings of the 3rd respondent No.PA/19/R(20)/2007-DY.CTM-WL, dt 02.07.2007 in so far as imposing the punishment of deferment of annual increment for a period of 2 years with cumulative effect and treating the period from the date of removal to till reinstatement as ‘not on duty’ is illegal, arbitrary and unjust and consequently set aside the same by granting increments and treating the period removal to till reinstatement as on duty and pass such further other order or orders as this Hon’ble Court may deems fit and proper under the circumstances of the case.”

Heard Sri G.Ravi Mohan, learned counsel appearing for the petitioner, and Sri D.Sridhar Reddy learned Standing Counsel appearing for the respondent-Corporation.

It is the case of the petitioner that he was appointed as Conductor in the respondent-Corporation in the year 1991 and he was discharging his duties as such. While so, on 2.9.2006, a check was exercised by the checking officials and the checking officials found that the petitioner had indulged in cash and ticket irregularities. This incident was construed as a misconduct, the disciplinary authority, after conducting detailed enquiry, and for the proven misconduct, terminated him from service *vide* order dated 27.12.2006. Challenging the

same, the petitioner preferred an appeal before the appellate authority. The appellate authority, while setting aside the termination order, imposed the punishment of deferment of annual increment for a period of two years with cumulative effect and treated the period of removal till reinstatement 'as not on duty' *vide* order dated 2.7.2007. Challenging the same, the present writ petition is filed.

Learned counsel appearing for the petitioner submits that without conducting any enquiry, the disciplinary authority had imposed the punishment and that the appellate authority, while setting aside the termination order, ought not to have imposed the punishment of deferment of annual increment for a period of two years with cumulative effect.

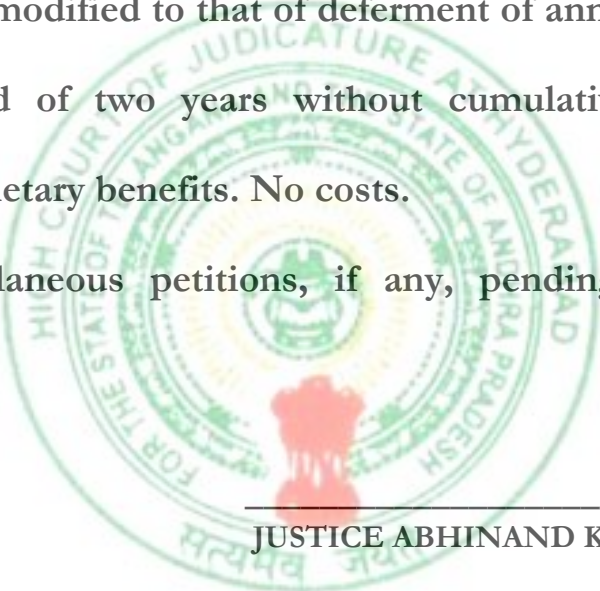
Learned Standing Counsel appearing for the respondent-Corporation contends that the disciplinary authority had rightly imposed the punishment against the petitioner and the appellate authority had rightly set aside the termination order and imposed the punishment of deferment of annual increment for a period of two years with cumulative effect, and hence, no interference is called for by this Court.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that while setting aside the termination order, the

appellate authority ought not to have imposed the punishment of deferment of annual increment for a period of two years with cumulative effect. Therefore, this Court feels that ends of justice would be met if the punishment of deferment of annual increment for a period of two years with cumulative effect is modified to that of without cumulative effect.

Accordingly, the Writ Petition is disposed of. The order dated 2.7.2007 passed by the 3rd respondent-appellate authority is modified to that of deferment of annual increment for a period of two years without cumulative effect and without monetary benefits. No costs.

Miscellaneous petitions, if any, pending shall stand closed.



JUSTICE ABHINAND KUMAR SHAVILI

5th November, 2018
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