

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 11725 of 2004

ORDER:

This writ petition is filed seeking to issue a writ of mandamus declaring the action of the 2nd respondent in passing the orders dated 14.02.2002, as illegal and arbitrary. A consequential direction is also sought to the respondents to fix the pay duly taking into account the increments.

Heard Sri B. Shiva Kumar, learned counsel for the petitioner and 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 1995. While he was discharging his duties on 21.09.2000 the Prohibition and Excise officials checked the bus and detected some liquor bottles in the bus and registered a case in Crime No.146/00/01. The respondent corporation construed the same as misconduct and kept him under suspension vide orders dated 20.07.2001 and issued a charge sheet against him on the ground that he was involved in a criminal case. After conducting a detailed enquiry and on the basis of the enquiry report, the respondent corporation passed an order on 14.02.2002 withholding one annual increment for two years with cumulative effect and also treating the period of suspension as not on duty. It has been further contended that he was acquitted in C.C.No.102 of

2001 on the file of the Judicial Magistrate of First Class, Hindupur, vide judgment dated 09.10.2003. His grievance is that after his acquittal in the criminal case, he made series of representations to the corporation seeking to set aside the punishment order dated 14.02.2002, but however, the corporation has not passed any order. Aggrieved by the same, he filed the present writ petition.

It has been contended by the learned counsel for the petitioner that the punishment of withholding one annual increment for a period of two years with cumulative effect is too harsh. Learned counsel further contended that the disciplinary authority ought to have taken a lenient view and imposed a punishment of withholding one annual increment for a period of two years without cumulative effect.

Learned standing counsel for the respondent corporation had contended that the allegation made against the petitioner is very serious in nature and the disciplinary authority had rightly imposed the punishment of withholding one annual increment for a period of two years with cumulative effect for the proven misconduct in the enquiry and, hence, the writ petition is liable to be dismissed.

This Court having considered the submissions made by both the parties is of the considered view that disciplinary authority ought to have imposed punishment of withholding one annual increment 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 disciplinary authority is modified to that of punishment of withholding one annual increment 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 disciplinary authority to that of withholding one annual increment 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.

Consequently, miscellaneous petitions pending, if any, shall stand closed.

30th November, 2018
cbs

ABHINAND KUMAR SHAVILI, J



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(disposed of)

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