

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 24291 of 2003

ORDER:

This writ petition is filed seeking to issue a writ of mandamus declaring the action of the 1st respondent in not granting back wages and attendant benefits and imposing further punishment of deferment of annual increment for two years with cumulative effect, as illegal and arbitrary. A consequential direction is also sought to the 2nd respondent to pay the attendant benefits and back wages and modify the major penalty of deferment of annual increment for two years with cumulative effect.

Heard learned counsel for petitioner and learned Standing Counsel for the 2nd respondent corporation.

It has been contended by the petitioner that the petitioner was appointed as Driver in the respondent Corporation in the year 1985. While so, he was issued with a charge sheet dated 18.10.1994 alleging that he had intentionally detained the vehicle, refused to work in garage and failed to attend enquiry. After initiating disciplinary proceedings and after conducting a regular enquiry, the disciplinary authority imposed on him punishment of removal from service vide orders dated 24.04.1995. Challenging the said orders, he unsuccessfully preferred an appeal and a review and, thereafter, filed I.D.No.175 of 1999 on the file of the 1st respondent-Labour Court under Section 2-A(2) of Industrial Disputes Act, 1947. By award

dated 18.10.2001, the Labour Court set aside the order of removal and directed the respondent corporation to reinstate the petitioner into service with continuity of service, but without back wages and attendant benefits. Further, the Labour Court imposed punishment of deferment of annual increment for two years with cumulative effect. Challenging the same, he filed the present writ petition only to the extent of withholding of annual increment for two years with cumulative effect and denial of back wages and attendant benefits.

Learned counsel for the petitioner contended that the Labour Court cannot impose alternative punishment of withholding of annual increment for two years with cumulative effect while setting aside the orders of removal and further contended that the petitioner is also entitled for 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 with continuity of service and withholding of annual increment for two years 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 withholding of annual increment for two years with

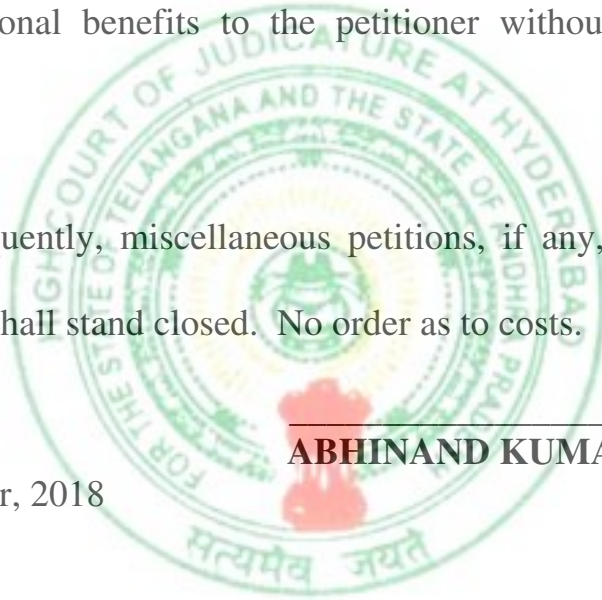
cumulative effect. Therefore, ends of justice would be met if the award of the Labour Court to the extent of withholding of annual increment for two years with cumulative effect is modified to that of without cumulative effect.

In view of the above, the Writ Petition is partly allowed and the order of the Labour Court to the extent of withholding of annual increment for two years 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.

ABHINAND KUMAR SHAVILI, J

19th December, 2018
cbs



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Writ Petition No. 24291 of 2003
(allowed partly)

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