

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.7076 of 2004

ORDER:

This Writ Petition is filed challenging the orders passed by the Disciplinary Authority in imposing a punishment of deferment of one increment with cumulative effect vide proceedings dated 05.06.1998.

The counsel for the petitioner submits that the petitioner has attained age of superannuation during the pendency of Writ Petition and the allegation leveled against the petitioner was that the battery in the vehicle which was driven by the petitioner was found to be missing and the Disciplinary Authority has conducted an enquiry and after conducting the enquiry, the Disciplinary Authority imposed a punishment of deferment of one increment with cumulative effect.

The counsel for the petitioner contends that the Disciplinary Authority ought to have appreciated that this is alone allegation in the entire career of the petitioner and he has handed over the bus in full condition to the depot and on the next day, it was reported that the battery is missing. If there are any missing parts in the bus after handing over the bus to the depot, it is not the responsibility of the petitioner and this fact was not appreciated by the Disciplinary Authority and the Disciplinary Authority has mechanically imposed punishment and therefore contends that the Disciplinary Authority

ought to have at least imposed punishment of deferment of one increment without cumulative effect and contends that the punishment imposed by the Disciplinary Authority be modified to that of deferment of one increment without cumulative effect instead of with cumulative effect.

The Standing Counsel appearing for the respondents contends that the Disciplinary Authority has rightly imposed punishment with cumulative effect for proving misconduct in the enquiry. There are no merits in the Writ Petition and the Writ Petition is liable to be dismissed.

This court having considered the rival submissions made by the parties, is of the considered view that the Appellate Authority ought to have seen that this is alone allegation in the entire career of the petitioner and apart from that, the battery was found missing after the petitioner has handed over the bus to depot and if any part is missing after handing over the bus, the petitioner alone is not responsible. This particular point ought to have taken by the Disciplinary Authority and the Disciplinary Authority could have imposed a punishment of stoppage of one increment for a period of one year without cumulative effect instead of with cumulative effect. Now, the petitioner has retired from service, ends of justice would be met if the punishment of deferment of one increment with cumulative effect is modified to that of without cumulative effect without any monetary benefits.

With these observations, the Writ Petition is disposed off. Consequently, miscellaneous petitions, if any, pending in the writ petition shall stand closed. No order as to costs.

ABHINAND KUMAR SHAVILI, J

26th December, 2018

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