

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI**WRIT PETITION No.25024 OF 2007****ORDER**

1. 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 action of the 3rd respondent insofar as imposing major punishment of deferment of annual increments for a period of two years with cumulative effect and in directing to treat the intervening period i.e., from the date of removal till the petitioner reports for duty as ‘Not on Duty’ for all purposes, vide proceedings No.Steno/19(61)/2003-DVM: ADB, dated 29.12.2003, as illegal and arbitrary; to set aside the same and consequently, to direct the respondents to grant increments to the petitioner and treat the intervening period i.e., from the date of removal till he reports for duty as ‘On Duty’ and pass such other order or orders as this Hon’ble Court may deem fit and proper under the circumstances of the case.”

2. Heard Sri G. Ravi Mohan, learned Counsel for the petitioner, and the learned Standing Counsel for the respondents.

3. It is the case of the petitioner that he was appointed as conductor in the year 1993, and he was discharging his duties as such. While so, on 20/21.5.2003, the checking officials

conducted check and alleged that the petitioner committed cash and ticket irregularities. The disciplinary authority construed the alleged irregularities as misconduct. The disciplinary authority, after conducting enquiry, and for the proven misconduct, removed the petitioner from service *vide* order dated 22.8.2003. Challenging the same, the petitioner preferred an appeal before the appellate authority. The appellate authority *vide* order dated 29.12.2003 set aside the removal order while directing reinstatement of the petitioner and while imposing punishment of deferment of annual increments for a period of two years with cumulative effect and while directing to treat the intervening period from the date of removal till the petitioner reports for duty as Not on Duty for all purposes. Challenging the same, the present writ petition is filed.

4. Learned Counsel for the petitioner contends that without giving any opportunity to the petitioner, the disciplinary authority imposed punishment of removal and that the appellate authority while setting aside the order of removal, ought not to have imposed the punishment of deferment of annual increments for a period of two years with cumulative effect and it ought not to have directed that the intervening period from the date of removal till the petitioner reports for duty be treated as 'not on duty' for all purposes.

5. Learned Standing Counsel for the respondent-Corporation contends that the disciplinary authority had rightly imposed the punishment of removal on the petitioner and the appellate authority took a lenient view and set aside the removal order while imposing punishment of deferment of annual increments of a period of two years and while directing to treat the intervening period from the date of removal till the petitioner reports for duty as Not on Duty for all purposes, and hence, no interference is called for by this Court.

6. 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 order of removal passed by the disciplinary authority, the appellate authority ought not to have imposed the punishment of deferment of annual increments 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 increments for a period of two years with cumulative effect is modified to that of deferment of annual increments for a period of two years without cumulative effect.

7. Accordingly, the Writ Petition is disposed of modifying the punishment of deferment of annual increments for a period of two years with cumulative effect, imposed by the appellate authority on the petitioner, to that of deferment of annual increments for a period of two years without cumulative effect

and without monetary benefits. The order impugned is modified to the above extent only. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

25th October, 2018
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HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.25024 OF 2007



25.10.2018

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