

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 24609 of 2003

ORDER:

This writ petition is filed seeking a writ of mandamus declaring the action of the respondents in not paying the yearly increments to the petitioner, as illegal and arbitrary. A consequential direction is also sought to the respondents to pay the yearly increments to the petitioner.

Heard learned counsel for petitioner and learned Standing Counsel for the respondents.

The brief facts are that the petitioner was appointed as Conductor in the respondent Corporation on 01.05.1972 and while he was discharging his duties on 10.04.1979 the officials of the respondent corporation conducted a check and found that he had indulged in cash and ticket irregularities. The respondent corporation construed his conduct as misconduct and after initiating disciplinary proceedings and after conducting a regular enquiry, the disciplinary authority imposed on him punishment of removal from service vide orders dated 17.11.1979. Challenging the said orders, he approached the Conciliation Officer for settlement. As the conciliation talks were failed, the Government made a reference before the Industrial Tribunal-cum-Labour Court, Warangal under Section 10 (1) (c) of the Industrial Disputes Act for determination of the issue, which was numbered as I.D.No.60 of 1986. The Labour Court passed award on

16.04.1987 confirming the removal order. Questioning the same, he filed W.P.No.14768 of 1987. This Court allowed the writ petition and remanded back the matter to the Labour Court for fresh consideration. Pursuant thereto, the Labour Court reopened the matter and passed an award on 22.06.1993 setting aside the orders of removal and directing the respondents to reinstate the petitioner into service with continuity of service, but without back wages. Further, the Labour Court imposed punishment of deferment of three annual increments with cumulative effect. The same is challenged in this writ petition.

Learned counsel for the petitioner contended that the Labour Court cannot impose alternative punishment of withholding of three annual increments 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 three increments 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 while setting aside the orders of removal, the Labour Court ought not to have imposed the

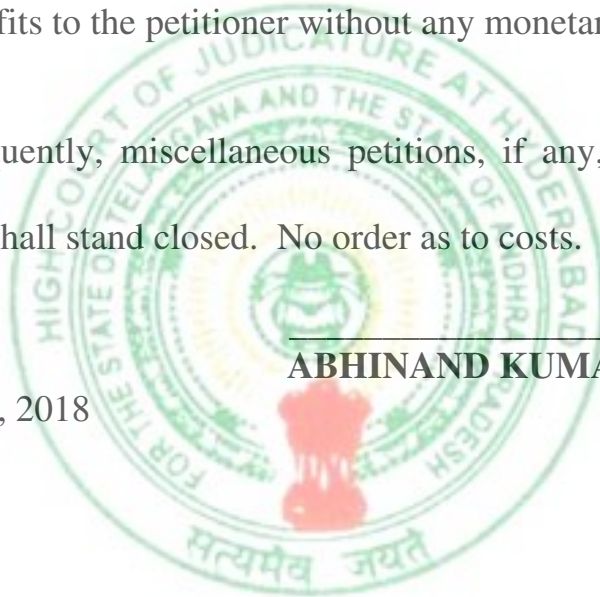
punishment of withholding of three increments with cumulative effect. Therefore, ends of justice would be met if the order of the Labour Court to the extent of withholding of three increments with cumulative effect is modified to that of without cumulative effect.

In view of the above, the Writ Petition is partly allowed and the order of the Labour Court to the extent of withholding of three increments 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

6th November, 2018
cbs



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Writ Petition No. 24609 of 2003
(partly allowed)

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