

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.10493 OF 2004

ORDER

This writ petition is filed seeking the following relief:

“.... to issue a writ, order or direction more in the nature of Writ of Mandamus declaring the proceedings No.PA/19/(123)/2002 RM:KRMR, dated 29.01.2002 issued by the 2nd respondent insofar as postponing 2 annual increments permanently and treating continuity of service of the petitioner from the date of removal to date of reinstatement as not on duty for all purposes as illegal and contrary to law and set aside the same with all consequential benefits including arrears and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

Heard learned counsel appearing for the petitioner and Smt. Danda Radhika, learned Standing Counsel appearing for the respondent-Corporation.

It is the case of the petitioner that he was appointed as Driver in the respondent-Corporation and discharging his duties as such. While so, the respondent-Corporation issued charge sheet to him on the ground that he had absented to his duties from 26-12-1997 to 29-12-1997 without prior sanction. This incident was construed as a misconduct, the Depot Manager had imposed the punishment of removal from service against him *vide* proceedings dated 20-02-1998 and the same was confirmed in appeal *vide* proceedings dated 19.12.2001. Thereafter, he filed review application before the

2nd respondent. The 2nd respondent *vide* proceedings dated 29.1.2002 while reinstating the petitioner into service, imposed the punishment of removal to that of postponing two annual increments for a period of two years, which shall have its effect on his future increments permanently, and treated the period from the date of removal to the date of joining as 'not on duty'. Challenging the same, the present writ petition is filed.

Learned counsel appearing for the petitioner submits that without conducting any enquiry, the Depot Manager had imposed the punishment of removal against the petitioner and that the reviewing authority while reinstating him into service, imposed the punishment of postponing two annual increments for a period of two years, which shall have its effect on his future increments permanently, and treated the period from the date of removal to the date of joining as 'not on duty' which is contrary to the judgment of the Apex Court in *Kulwanth Singh Gill v. State of Punjab*¹.

Learned Standing Counsel appearing for the respondent-Corporation contends that the Depot Manager as well as the Reviewing Authority have rightly imposed the punishment against the petitioner and hence, no interference is called for by this Court.

¹ 1991 Suppl (1) SCC 504

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that the Reviewing Authority ought not to have imposed the punishment of postponing two annual increments for a period of two years, which shall have its effect on his future increments permanently, and treated the period from the date of removal to the date of joining as 'not on duty', while reinstating the petitioner into service, without appreciating the fact that the punishment was imposed without conducting any enquiry. Therefore, this Court feels that ends of justice would be met if the punishment of postponing two annual increments for a period of two years, which shall have its effect on his future increments permanently is modified to that of without cumulative effect.

Accordingly, the Writ Petition is disposed of. The punishment imposed by the 2nd respondent *vide* order dated 29.01.2002 is modified to that of postponement of two annual increments for a period of two years without cumulative effect. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

24th December, 2018
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