

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P. No.14443 of 2007ORDER:

This writ petition is filed seeking the following relief:

“To declare the action of the respondents in imposing the punishment of deferment of annual increment next falls due for a period of 2 years with cumulative effect besides treating the period of suspension as not on duty vide proceedings No. O2/ 95(220)/ 2004-VNK, dated 4.6.2005, which was confirmed by the appellate authority vide proc. No. Steno/ 19(68)/ 05-DVM(N), dated 30.11.2005 as illegal, unjust and arbitrary and as such liable to be set aside in the interest of justice.”

2. Heard Sri S.M.Subhan, the counsel for the petitioner and Sri B.Mayur Reddy, Standing Counsel for the Respondent-Corporation.

3. It has been contended by the petitioner that he was appointed as Conductor in the year 1976, and while he was discharging duties as such, the respondent-Corporation issued a charge sheet on 30.12.2004, alleging cash and ticketing irregularities, and the said act was constructed as misconduct and conducted regular departmental enquiry and after conducting regular departmental enquiry, the punishment of deferment of annul increment for a period of two years with cumulative effect, vide orders dated 04.06.2005 for the proven misconduct. The petitioner had preferred an appeal, and the appellate authority, vide order dated 30.11.2005 confirmed the same. Challenging the same, the present writ petition is filed.

4. It has been contended by the learned counsel for the petitioner that the punishment of deferment of annul increment for a period of two years with cumulative effect is too harsh. Learned counsel further contended that the appellate authority ought to have taken a lenient

view and imposed a punishment of deferment of annul increment for a period of two years without cumulative effect.

5. The Standing Counsel appearing for the respondent-Corporation had contended that the disciplinary authority had imposed the punishment of deferment of annul increment for a period of two years with cumulative effect for the proven misconduct in the enquiry. Learned Standing Counsel further contended that the appellate authority had taken a lenient view and no further lenient view can be taken, and the writ petition is liable to be dismissed.

6. This Court, having considered the submissions made by the parties, is of the considered view that the appellate authority ought to have imposed a punishment of deferment of annul increment for a period of two years without cumulative effect, instead of with cumulative effect. Therefore, ends of justice would be met if the punishment imposed by the appellate authority is modified to that of deferment of annul increment for a period of two years without cumulative effect, instead of with cumulative effect.

7. Accordingly, the writ petition is disposed of, modifying the punishment imposed by the appellate authority to that of reduction of pay by two incremental stages for a period of two years without cumulative effect. It is made clear that the above modified punishment is without any monetary benefits. There shall be no order as to costs. Miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

Date: 30.10.2018
DMG

