

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P. No.3477 of 2007

ORDER:

This writ petition is filed seeking to issue a writ of mandamus, declaring the proceedings of the 3rd respondent No. PA/19(25)/2006-RM(K), dated 19.08.2006 as illegal and set aside the same in so far against to the petitioner and further direct the 3rd respondent herein to grant all consequential benefits, including continuity of service, attendant benefits and two annual grade increments with arrears.

2. Heard Sri P.Govinda Rajulu, the learned counsel for the petitioner and Sri P.Durga Prasad, the learned Standing Counsel for the respondent-Corporation.

3. It has been contended by the petitioner that he was appointed as Conductor in the respondent-Corporation on 01.06.1991 and his services were regularized on 10.1.1994. While he was discharging his duties as Conductor, the respondent-Corporation had issued a charge sheet on 12-5-2005 alleging that he was unauthorisedly absented from 19.1.2005 to 12-05-2005. The Depot Manager issued a show cause notice on 11.8.2005 and the said act of the petitioner was construed as misconduct. After conducting regular departmental enquiry, he was removed from service vide orders dated 31.8.2005 for the proven misconduct. The petitioner had preferred an appeal and review petition and the respondent-corporation ordered for reinstatement of the petitioner; however, modified the punishment of reduction of his pay by two incremental stages for a period of 2 years with cumulative effect, imposed by DVM(C)/VJA, as

reduction of his pay by two incremental stages for a period of 1 year with cumulative effect. Challenging the same, the present writ petition is filed.

4. It has been contended by the counsel for the petitioner that the modification of punishment of reduction of his pay by two incremental stages, for a period of 2 years with cumulative effect imposed by DVM (C)/VJA as reduction of his pay by two incremental stages for a period of 1 year with cumulative effect, is too harsh. It is further contended that the appellate authority ought to have taken a lenient view and modified the punishment of reduction of his pay by two incremental stages for a period of 2 years with cumulative effect imposed by DVM (C)/VJA as reduction of his pay by two incremental stages for a period of 1 year without cumulative effect.

5. The Standing Counsel for the respondent-Corporation had contended that the disciplinary authority had imposed the punishment of removal for the proven misconduct in the enquiry. He 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 both the parties, is of the considered view that the appellate authority ought to have modified the punishment of reduction of petitioner's pay by two incremental stages for a period of 2 years with cumulative effect imposed by DVM(C)/VJA as reduction of his pay by two incremental stages for a period of 1 year 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 from reduction of petitioner's pay by two incremental stages for a period of 2 years with cumulative effect imposed by DVM(

C)/VJA as reduction of his pay by two incremental stages for a period of 1 year without cumulative effect.

7. Accordingly, the writ petition is disposed of, modifying the punishment imposed by the appellate authority from reduction of petitioner's pay by two incremental stages for a period of 2 years with cumulative effect as reduction of his pay by two incremental stages for a period of 1 year without cumulative effect. It is made clear that the above modified punishment is without any monetary benefits. No order as to costs. Miscellaneous petitions pending, if any, stand closed.

ABHINAND KUMAR SHAVILI, J

Date: 23.11.2018

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