

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.4374 OF 2004

ORDER:

This writ petition is filed under Article 226 of the Constitution of India, seeking to issue writ of mandamus declaring the action of the respondents in imposing punishment of deferment of annual increment for a period of one year with cumulative effect, vide orders, dated 25.11.1995, which was confirmed by the appellate authority, vide orders, dated 10.01.1998 as illegal and arbitrary and consequently to set aside the same.

2. Heard Sri S.M.Subhan, learned counsel for the petitioner and Sri B.Mayur Reddy, learned standing counsel for the respondents.

3. It has been contended by the learned counsel for the petitioner that the petitioner was appointed as conductor during 1988 and while he was discharging duties, he fell sick and applied for leave. Thereafter, the respondents treated the same as absence and issued charge sheet and without considering his explanation and without conducting departmental enquiry, the respondents imposed punishment of deferment of annual increment for a period of one year with cumulative effect, vide proceedings, dated 25.11.1995, which was confirmed by the appellate authority, vide proceedings, dated 10.01.1998. Challenging the same the present writ petition is filed.

4. Learned standing counsel for the respondents contended that after following the due procedure, the respondents have imposed punishment and no illegality is committed by the respondents.

5. This Court having considered the rival contentions made by both parties, is of the considered view that the respondents have imposed punishment of deferment of annual increment for a period of one year with cumulative effect without conducting any enquiry, which is against the law laid down by the apex Court in a decision reported in **KULWANT SINGH GILL V STATE OF PUNJAB** ¹

6. In view of the same, the writ petition is allowed setting aside the impugned orders, dated 25.11.1995 passed by the disciplinary authority, which was confirmed by the appellate authority, vide orders, dated 10.01.1998. However, the petitioner will be entitled only for notional increment without any monetary benefit. No order as to costs. Miscellaneous petitions, if any pending in this writ petition shall stand closed.

ABHINAND KUMAR SHAVILI, J

DATED:12-10-2018

Hsd

¹ 1990 (2) SCALE 597