

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.25051 of 2003

ORDER:

1. This writ petition is filed seeking the following relief:

“This Hon'ble Court may be pleased to issue an order, direction or writ more particularly in the nature of writ of Mandamus declaring the action of the respondents in issuing the proceedings No.02/95 (45)/2001-NKP, dated 20.12.2001 of the 3rd respondent and also issuing the proceedings No.PA/19(97)/2002, dated 14.11.2002 of the 2nd respondent as illegal, arbitrary and unjust and consequently, direct the respondents to treat the petitioner's service as continuous from the date of suspension till the date of reinstatement by adding two increments and pass such further other order or orders as this Hon'ble Court may deem fit and proper under the circumstances of the case.”

2. Heard Sri G. Ravi Mohan, learned Counsel for the petitioner and Sri A. Ravi Babu, 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 in the year 1988, and while he was discharging his duties on 6.7.2001, the checking officials conducted check and alleged that he indulged in cash and ticket irregularities, basing on which, a charge sheet was issued to him on 24.7.2001 for which he gave his explanation. It has been further contended that being not satisfied with the said explanation, the

respondent-corporation conducted a regular departmental enquiry and after conducting regular departmental enquiry, the respondent-corporation passed order dated 20.12.2001 imposing punishment of withholding annual increment for a period of one year, which shall have effect on future increments besides treating the period of suspension as not on duty. It has been further contended that aggrieved by the order dated 20.12.2001, the petitioner preferred an appeal and the said appeal was rejected. Hence, the petitioner filed this writ petition.

4. It has been contended by the learned Counsel for the petitioner that the punishment of withholding of annual increment for a period of one year with cumulative effect, is too harsh and that the disciplinary authority as well as the appellate authority ought to have taken a lenient view and imposed punishment of withholding of annual increment for a period of one year without cumulative effect.

5. Learned Standing Counsel for the respondent-Corporation contended that the disciplinary authority took a lenient view and imposed the aforesaid punishment, and therefore, 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 disciplinary authority ought to have imposed punishment of withholding of annual increment for a period of one year without cumulative effect instead of with cumulative effect. Therefore, ends of justice would be met if the punishment imposed by the disciplinary authority is modified to that of withholding of annual increment for a period of one year without cumulative effect instead of with cumulative effect.

7. Accordingly, the Writ Petition is disposed of modifying the punishment imposed by the disciplinary authority withholding annual increment for a period of one year with cumulative effect to that of withholding annual increment for a period of one 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, shall stand closed.

ABHINAND KUMAR SHAVILI, J

Date: 13/11/2018
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