

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 16594 of 2002

ORDER:

This writ petition is filed seeking a writ of certiorari calling for the records in connection with I.D.No.309 of 1999 on the file of the 1st respondent - Labour Court and quash the award dated 05.05.2000 passed in the said I.D., only to the extent of withholding of three increments with cumulative effect and not granting back wages and attendant benefits.

Heard learned counsel for petitioner and learned Standing Counsel for the 2nd respondent corporation.

The brief facts are that the petitioner was appointed as Conductor in the respondent Corporation in the year 1985. While so, he was issued with a charge sheet dated 23.05.1989 alleging that he absented from duty unauthorisedly. The respondent corporation construed his conduct as misconduct and after initiating disciplinary proceedings and after conducting a regular enquiry, the disciplinary authority imposed on him punishment of removal from service vide orders dated 23.02.1991. Challenging the said orders, he filed I.D.No.309 of 1999 on the file of the 1st respondent-Labour Court under Section 2-A(2) of Industrial Disputes Act, 1947. By order dated 05.05.2000, the Labour Court was pleased to pass order in his favour by setting aside the order of removal and directed the respondent Corporation to reinstate him into service with continuity of service,

but without back wages and attendant benefits. Further, the Labour Court imposed the punishment of withholding of three annual increments with cumulative effect. Challenging the same, he filed the present writ petition only to the extent of withholding of three increments with cumulative effect and denial of back wages and attendant benefits.

Learned counsel for the petitioner contended that the Labour Court cannot impose alternative punishment of withholding of three annual increments with cumulative effect while setting aside the orders of removal and further contended that the petitioner is also entitled for back-wages and attendant benefits.

Learned Standing Counsel for the respondent Corporation contended that the Labour Court had rightly modified the major punishment of removal to that of reinstatement of the petitioner into service with continuity of service and withholding of three increments with cumulative effect and, therefore, no interference is called for from this Court.

Having considered the rival contentions of the parties, this Court is of the considered view that the while setting aside the orders of removal, the Labour Court ought not to have imposed the punishment of withholding of three increments with cumulative effect. Therefore, ends of justice would be met if the order of the

Labour Court to the extent of withholding of three increments with cumulative effect is modified to that of without cumulative effect.

In view of the above, the Writ Petition is partly allowed and the order of the Labour Court to the extent of withholding of three increments with cumulative effect is modified to that of without cumulative effect and the respondent Corporation is directed to grant notional benefits to the petitioner without any monetary benefits.

Consequently, miscellaneous petitions, if any, pending in the writ petition shall stand closed. No order as to costs.

ABHINAND KUMAR SHAVILI, J

11th December, 2018
cbs



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Writ Petition No. 16594 of 2002
(partly allowed)

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