

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 26276 of 2003

ORDER:

This writ petition is filed seeking a writ of certiorari calling for the records in connection with I.D.No.11 of 2000 on the file of the 1st respondent - Labour Court and quash the award dated 04.07.2002 passed in the said I.D., only to the extent of withholding of three increments with cumulative effect and imposing penalty of Rs.2,000/- and not granting continuity of service, back wages and attendant benefits.

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

The brief facts are that the petitioner was appointed as Mechanic in the respondent Corporation. While so, a charge sheet was issued to him on the ground that he was absent from duty unauthorisedly. The respondent corporation construed this act 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 02.04.1998. Challenging the said orders, he unsuccessfully preferred an appeal and a review and thereafter filed I.D.No.11 of 2000 on the file of the 1st respondent-Labour Court under Section 2-A(2) of Industrial Disputes Act, 1947. By order dated 04.07.2002, 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 as mechanic as fresh recruit, but without continuity of service, back wages and attendant benefits. Further, the Labour Court imposed the punishment of withholding of three annual increments with cumulative effect and penalty of Rs.2,000/-. Challenging the same, he filed the present writ petition only to the extent of withholding of three increments with cumulative effect and imposing penalty of Rs.2,000/- and denial of continuity of service, 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 continuity of service, 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 as fresh recruit 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 while setting aside the orders of removal, the Labour Court ought not to have imposed the

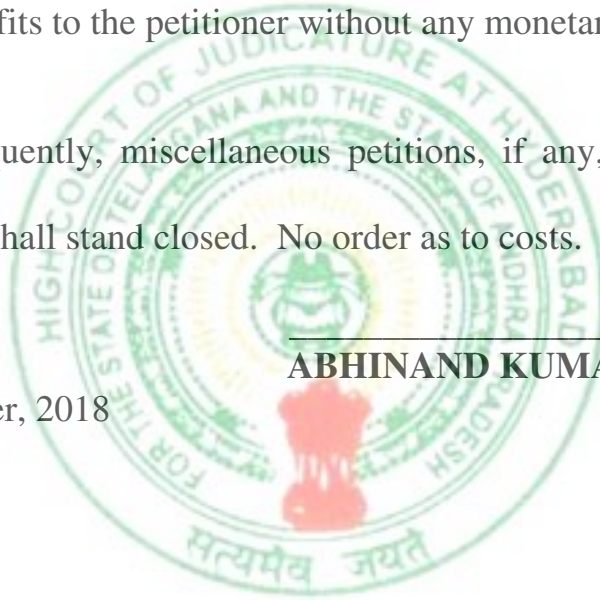
punishment of withholding of three increments with cumulative effect. Therefore, ends of justice would be met if the order of the Labour Court to the extent of withholding of three increments with cumulative effect is modified to that of without cumulative effect.

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

23rd November, 2018
cbs



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Writ Petition No. 26276 of 2003
(allowed partly)

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