

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P. No.13888 of 2004ORDER:

This writ petition is filed seeking a writ of mandamus declaring the proceedings No. PA/ 19(1)2001-Dy.CTM, KPMR, dated 15.02.2001, insofar as imposing the punishment of stoppage of two annual increments with cumulative effect and denying continuity of service, as arbitrary, illegal and unjust.

2. Heard Smt. S.V.Indira, the counsel for the petitioner and Sri A.Pama Rao, Standing Counsel for the respondents.

3. It has been contended by the petitioner that he was initially appointed as a Conductor and while he was discharging his duties, on 15.07.2000, it has been alleged that he had indulged in cash and ticketing irregularities. The disciplinary authority has construed the same as misconduct and initiated disciplinary proceedings, and after conducting detailed enquiry and for the proven misconduct, the petitioner was removed from service, vide orders dated 02.11.2000. Thereafter, the petitioner has preferred an appeal, and the appellate authority was pleased to set aside the orders of removal; however, while granting relief, denied continuity of service and imposed the punishment of stoppage of two annual increments with cumulative effect. Challenging the same, the present writ petition is filed.

4. The counsel for the petitioner contends that the appellate authority erred in awarding a major punishment of stoppage of two annual increments with cumulative effect by setting aside another major punishment of removal from service, and that the appellate authority

ought to have modified the punishment of removal from service to a minor punishment. Therefore, contends that appropriate orders be passed by setting aside that portion of the order passed by the appellate authority, wherein the appellate authority had imposed the punishment of stoppage of two annual increments with cumulative effect.

5. The Standing Counsel for the respondents contended that the appellate authority has rightly inflicted the punishment of stoppage of two annual increments with cumulative effect and as the petitioner could not point out any major irregularity or illegality in the order passed by the appellate authority, this Court should not normally interfere with the orders passed by the appellate authority, and there are no merits in the writ petition and the same is liable to be dismissed.

6. This Court, having considered the said submission, is of the considered view that the appellate authority could have imposed the punishment of stoppage of two annual increments without cumulative effect that would have met the ends of justice, because the petitioner was already facing a major penalty of removal from service. However, instead of modifying the major punishment of removal from service to a minor punishment, the appellate authority modified the major punishment of removal from service to another major punishment of stoppage of two annual increments with cumulative effect. The appellate authority had already denied back wages. If the orders of the appellate authority are to be sustained, then the petitioner would be inflicted with a punishment of denial of back wages and stoppage of two annual increments, that too, with cumulative effect. It would be multiplicity of punishments on the petitioner. Therefore, this Court is of the considered view that the punishment of stoppage of two annual

increments with cumulative effect imposed by the appellate authority is too harsh a punishment, and is liable to be modified.

7. Accordingly, the writ petition is disposed of, modifying the punishment of stoppage of two annual increments with cumulative effect to that of stoppage of two annual increments without cumulative effect. The rest of the proceedings passed by the appellate authority is confirmed. There shall be no order as to costs. Miscellaneous petitions pending, if any, shall stand closed.

Date: 20.12.2018
DMG

ABHINAND KUMAR SHAVILI, J

