

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.12132 OF 2007

ORDER

This writ petition is filed seeking for the following relief:

“.... to issue a writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 2<sup>nd</sup> respondent in imposing the punishment of withholding of petitioner's annual increment for a period of two years, which shall have effect on his future increments as bad, arbitrary, unjust and unreasonable and violative of principles of natural justice and also against to the judgments of this Hon'ble Court and also the Apex Court by setting aside the office order No.PA/95(61)/2003-VSCD, dated 3-11-2004 of the 2<sup>nd</sup> respondent herein or modify the same and pass such other order or orders.”

Heard Sri P.Venkateswara Rao, learned counsel appearing for the petitioner, and Sri S.V.Ramana, learned Standing Counsel appearing for the respondent-Corporation.

It is the case of the petitioner that he was appointed as Conductor in the respondent-Corporation and he was discharging his duties as such. While so, on 21-04-2003, the checking officials exercised a check and found that the petitioner had indulged in cash and ticket irregularities. This incident was construed as a misconduct, the disciplinary authority had imposed the punishment of withholding of annual increment for a period of two years without cumulative effect *vide* order dated 30-08-2003.

Thereafter, the appellate authority, on its own, re-examined the case of the petitioner, and enhanced the punishment to that of withholding of annual increment for a period of two years with cumulative effect *vide* order dated 03.11.2004. Challenging the same, the present writ petition is filed.

Learned counsel appearing for the petitioner submits that without conducting any enquiry, the disciplinary authority had imposed the punishment and that the appellate authority without appreciating the said fact, had enhanced the punishment to that of withholding the annual increment for a period of two years with cumulative effect, which is contrary to the judgment of the Apex Court in *Kulwanth Singh Gill v. State of Punjab*<sup>1</sup>.

Learned Standing Counsel appearing for the respondent-Corporation contends that the disciplinary authority as well as the appellate authority have rightly imposed the punishment against the petitioner and hence, no interference is called for by this Court.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that the appellate authority ought not to have imposed the punishment of withholding the annual increment for a period of two years with cumulative effect, without

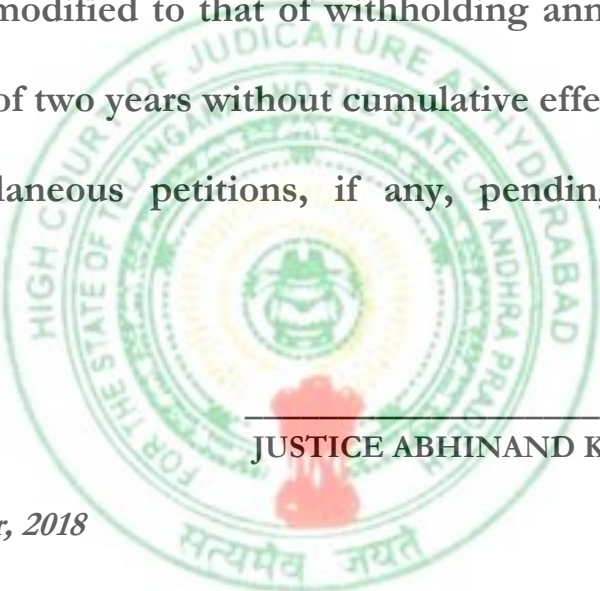
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<sup>1</sup> 1991 Suppl (1) SCC 504

appreciating the fact that the punishment was imposed without conducting any enquiry. Therefore, this Court feels that ends of justice would be met if the punishment of withholding the annual increment for a period of two years with cumulative effect is modified to that of without cumulative effect.

Accordingly, the Writ Petition is disposed of. The punishment imposed by the 2<sup>nd</sup> respondent *vide* order dated 3.11.2004 is modified to that of withholding annual increment for a period of two years without cumulative effect. No costs.

Miscellaneous petitions, if any, pending shall stand closed.



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JUSTICE ABHINAND KUMAR SHAVILI

27<sup>th</sup> September, 2018  
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