

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 16705 of 2004

ORDER:

This writ petition is filed seeking a writ of mandamus declaring the proceedings dated 28.01.2003 issued by the 1st respondent to the extent of postponing the petitioner's annual increments for a period of two years with cumulative effect and treating the intervening period from the date of petitioner's removal from service till the petitioner joining duty as not on duty, as illegal and arbitrary. A consequential direction is also sought to the respondents to provide all the benefits that were denied in pursuance of the impugned proceedings, to the petitioner.

Heard learned counsel for the petitioner and learned standing counsel for the respondent corporation.

It has been contended by the petitioner that he was appointed as Driver on daily wage basis in the year 1994 in the respondent corporation and his services were regularized with effect from 01.08.1996. When he was discharging his duties, due to jaundice he was forced to stay away from duty duly giving prior intimation to the depot officials concerned. While so, the 2nd respondent issued orders dated 03.05.2001 removing him from service on the allegation that he was unauthorisedly absent from duty from 20.07.2000 to 16.12.2000. Aggrieved thereby, he unsuccessfully preferred an appeal before the appellate authority and thereafter filed a review before the 1st

respondent-reviewing authority. Vide orders dated 28.01.2003, the reviewing authority directed reinstatement of the petitioner into service duly postponing his annual increment for two years with cumulative effect and treated the intervening period from his date of removal from service till he reported for duty, as not on duty. Questioning the same, the present writ petition is filed.

Learned counsel for the petitioner contended that the reviewing authority cannot impose alternative punishment of withholding of annual increment for two years with cumulative effect while setting aside the orders of removal.

Learned Standing Counsel for the respondent Corporation contended that the reviewing authority had rightly modified the major punishment of removal to that of reinstatement of the petitioner into service and withholding of annual increment for two years 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 reviewing authority ought not to have imposed the punishment of withholding of annual increment for two years with cumulative effect. Therefore, ends of justice would be met if the order of the reviewing authority to the extent of withholding of annual increment for two years with cumulative effect is modified to that of without cumulative effect.

In view of the above, the Writ Petition is disposed of and the order of the reviewing authority to the extent of withholding of annual increment for two years 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.

28th December, 2018
cbs

ABHINAND KUMAR SHAVILI, J



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Writ Petition No.16705 of 2004
(disposed of)

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