

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.24860 OF 2008

ORDER

1. This writ petition is filed seeking the following relief:

“.... to issue an order, direction or writ more particularly one in the nature of Writ of Mandamus declaring the action of the 2nd respondent in issuing the proceedings No.PA/19(30)/07-RM.N, dated 17.08.2007 insofar as imposing punishment of deferment of annual increment for a period of two (2) years, which shall have cumulative effect, as illegal, arbitrary and unjust, and consequently to set aside the same by granting increments to the petitioner and pass such other order or orders as this Hon'ble Court may deem fit and proper under the circumstances of the case.”

2. Heard Sri G. Ravi Mohan, learned Counsel for the petitioner, and Smt. B.G. Uma Devi, learned Standing Counsel for the respondents.

3. It is the case of the petitioner that he was appointed as Driver in the respondent-Corporation in the year 1985 and he was discharging his duties as such. While so, due to his ill-health, he did not attend duty from 21.8.2006 to 1.11.2006. The disciplinary authority construed the said absence as misconduct. The disciplinary authority, after conducting enquiry, and for the proven misconduct, removed the petitioner from service *vide* order dated 1.11.2006. Challenging the same, the petitioner preferred an appeal before the appellate

authority. The appellate authority *vide* order dated 7.12.2006 set aside the removal order while directing reinstatement of the petitioner and while imposing punishment of reduction of petitioner's pay by two incremental stages for a period of two years, which shall have cumulative effect on his future increments, and treating the period from the date of removal till he reports for duty as 'Not on Duty'. Aggrieved by the same, the petitioner preferred review. The reviewing authority modified the punishment imposed by the appellate authority to that of deferment of annual increment for a period of two years with cumulative effect by proceedings dated 17.8.2007. Challenging the same, the present writ petition is filed.

4. Learned Counsel for the petitioner contends that without giving any opportunity to the petitioner, the disciplinary authority imposed the punishment and that the reviewing authority while modifying the order of the appellate authority, ought not to have imposed the punishment of deferment of annual increment for a period of two years with cumulative effect.

5. Learned Standing Counsel for the respondent-Corporation contends that the disciplinary authority had rightly imposed the punishment on the petitioner and the appellate authority took a lenient view and set aside the removal order while imposing punishment of reduction of petitioner's pay and that the reviewing authority again took a lenient view and

modified the punishment imposed by the appellate authority to that of punishment of deferment of annual increment for a period of two years with cumulative effect, and hence, no interference is called for by this Court.

6. Having considered the rival submissions made by the learned Counsel on either side, this Court is of the considered view that while modifying the punishment imposed by the appellate authority, the reviewing authority ought not to have imposed the punishment of deferment of annual increment for a period of two years with cumulative effect. Therefore, this Court feels that ends of justice would be met if the punishment of deferment of annual increment for a period of two years with cumulative effect is modified to that of deferment of annual increment for a period of two years without cumulative effect.

7. Accordingly, the Writ Petition is disposed of modifying the punishment of deferment of annual increment for a period of two years with cumulative effect, imposed by the reviewing authority on the petitioner, to that of deferment of annual increment for a period of two years without cumulative effect and without monetary benefits. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

25th October, 2018
Nn

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.24860 OF 2008



25.10.2018

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