

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.40924 of 2014

ORDER:

This writ petition is filed seeking the following relief:

“For the reasons stated in the accompanying affidavit the petitioner herein prays that this Hon'ble Court may be pleased to issue a Writ, order or directions more in the nature of Writ of Mandamus declaring the proceedings of the 2nd respondent No.01/20(162)/2010-Dy-CTM-MBNR, dated 28.04.2011 in imposing three punishments i.e. reduction of basic pay by two incremental stages which shall have an effect on future increments, denial of continuity of service from the date of suspension to date of reinstatement and payment of Rs.500/- towards security deposit, as illegal, arbitrary and contrary to CC&A Regulations of the Corporation and circulars and violative of principles of natural justice and set aside the same insofar against to the petitioner with all consequential benefits including continuity of service, increments, all attendant benefits and full back wages and pass such other order or orders in the interest of justice as otherwise the petitioner may suffer irreparable loss and hardship.”

Heard Sri P.Govinda Rajulu, learned counsel for the petitioner and Smt. D.Radhika, learned Standing Counsel for the respondent-Corporation.

It has been contended by the petitioner that he is working as a Driver in the respondent-Corporation. While so, a charge sheet was issued against him on 04.05.2010 alleging that he committed certain cash and ticket irregularities. The said act was construed as misconduct and after initiating disciplinary proceedings and after conducting regular departmental enquiry, the disciplinary authority passed an order dated 28.10.2010, terminating him from service. Aggrieved thereby, he filed an appeal before the 2nd respondent, but

the same was rejected by impugned orders dated 28.04.2014, reinstating the petitioner into service by imposing 3 major punishments viz., reducing his basic pay by two (2) incremental stages which shall have an effect on future increments, the period from the date of removal to re-instatement shall be treated as “not on duty” for all purposes and the petitioner was directed to pay an amount of Rs.500/- towards security deposit as per Circular instructions in force. Aggrieved by the same, the present writ petition is filed.

It has been contended by the learned counsel for the petitioner that the punishment of reduction of pay of the petitioner by two incremental stages with cumulative effect is too harsh.

Learned counsel further contended that the appellate authority ought to have taken a lenient view and modified the punishment of reduction of pay of the petitioner by two incremental stages with cumulative effect to that of without cumulative effect.

Learned Standing Counsel for the respondent-Corporation had contended that the charge framed against the petitioner is very serious in nature and the disciplinary authority had rightly imposed the punishment of reduction of pay of the petitioner by two incremental stages with cumulative effect for the proven misconduct in the enquiry and the appellate authority had rightly rejected the appeal filed by the petitioner and, therefore, no interference is called for from this Court.

This Court, having considered the rival submissions of the parties, is of the considered view that the appellate authority ought to have modified the punishment of reduction of pay of the petitioner by

two incremental stages with cumulative effect to that of without cumulative effect. Therefore, ends of justice would be met if the punishment of reduction of pay of the petitioner by two incremental stages with cumulative effect is modified to that of without cumulative effect.

Accordingly, the Writ Petition is disposed of, modifying the punishment of reduction of pay of the petitioner by two incremental stages with cumulative effect to that of without cumulative effect. It is made clear that the above modified punishment is without any monetary benefits. The punishments imposed on other counts shall remain same. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

15th December 2018

ajr