

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.14925 of 2005

ORDER:

This writ petition is filed challenging the action of respondents in not permitting the petitioner to join duty in pursuance of the orders passed by the appellate authority dated 17.02.2001.

Counsel for petitioner submits that the appellate authority was pleased to modify the orders of removal to that of deferment of increment for a period of two years which will have effect on his future increments and directed the petitioner to report to duty within two months from the date of receipt of the appellate authority's order. The petitioner could not report to duty and he has reported nearly after 3½ years. The respondents have not considered the request of the petitioner for reinstatement in pursuance to the appellate authority's order dated 17.02.2001. Thereafter, the petitioner has preferred a review before the reviewing authority and the reviewing authority has rejected the review vide orders dated 27.06.2005.

Counsel for petitioner submits that owing to various domestic problems and other financial problems, petitioner could not report to duty in pursuance to the appellate authority's orders and even the appellate authority's order was communicated belatedly to the petitioner, therefore, contend that appropriate orders be passed directing the respondents to reinstate the petitioner as a Driver in pursuance to the appellate authority's order dated 17.02.2001.

The learned Standing Counsel appearing for respondents contend that when a lenient view was taken by the appellate authority and modified the punishment of removal to that of deferment of increment for a period of two years which will have effect on his future increments, the petitioner ought to have been diligent and immediately reported to duty. Since the petitioner has reported to duty nearly after 3½ years from the date of appellate authority's order, the question of considering the request of petitioner to reinstatement, would not arise. There are no merits in the writ petition and the same is liable to be dismissed.

This Court, having considered the rival submissions of the parties, is of the considered view that when the appellate authority, in principle, has agreed to reduce the punishment of removal to that of deferment of increments for a period of two years which will have effect on future increments, in all fairness, the appellate authority and the reviewing authority ought to have given one more opportunity to the petitioner as the petitioner has specifically pleaded that the appellate authority's order was not communicated to the petitioner well within time. In view of the fact that this is the first allegation in the entire career of the petitioner and the age of the petitioner as on today is only 51 years, his case can be considered for reinstatement on humanitarian grounds, more so, when the appellate authority has not communicated the orders passed by it to the petitioner for nearly 3 years. In view of the same, this Court is of the considered view that the case of the petitioner has to be considered for reinstatement in pursuance to the appellate authority's orders dated

17.02.2001 subject to the petitioner satisfying other conditions like medical fitness and other aspects.

With these observations, the writ petition is disposed of. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

31st December, 2018

ajr

