

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVIL

WRIT PETITION No.23834 of 2002

ORDER:

This writ petition is filed seeking to issue a writ of certiorari calling for the proceedings dated 25.10.1999 and quash the same holding it as illegal and arbitrary. A consequential direction is also sought to the respondents to restore the deferred increments along with consequential benefits.

Heard learned counsel for the petitioner and learned standing counsel for the respondents.

It has been contended by the petitioner that he was appointed as conductor in the respondent corporation in the year 1984. While he was discharging his duties on 17.04.1985 the checking officials of the respondent corporation conducted a check and found that he had indulged in cash and ticket irregularities. The said act was construed as misconduct and after initiating disciplinary proceedings and after conducting a regular departmental enquiry, the disciplinary authority imposed punishment of deferment of increment for a period of two years with cumulative effect without conducting any enquiry and without giving any opportunity vide orders dated 18.06.1986. Aggrieved by the same, he preferred an appeal before the appellate authority and the same was rejected on 08.11.1996. Challenging the same, he preferred a review before the reviewing authority and the same was also rejected on 25.10.1999. Questioning the same, the present writ petition is filed.

It has been contended by the learned counsel for the petitioner that the punishment of deferment of increment for a period of two years with cumulative effect is too harsh. Learned counsel further contended that the appellate authority or the revisional authority ought to have taken a lenient view and modified the punishment of deferment of increment for a period of two years 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 deferment of increment for a period of two years with cumulative effect for the proven misconduct in the enquiry. Learned standing counsel further contended that the appellate authority and the revisional authority had rightly rejected the appeal and the review preferred by the petitioner respectively and therefore the writ petition is liable to be dismissed.

This Court having considered the submissions made by both the parties is of the considered view that the appellate authority or the revisional authority ought to have modified the punishment of deferment of increment for a period of two years with cumulative effect to that of without cumulative effect. Therefore, ends of justice would be met if the punishment imposed by the disciplinary authority is modified to that of without cumulative effect.

Accordingly, the Writ Petition is disposed of modifying the punishment imposed by the disciplinary authority to that of punishment of deferment of increment for a period of two years

without cumulative effect. It is made clear that the above modified punishment is without any monetary benefits. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVIL, J

11th December, 2018
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