

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P. No.7320 of 2003ORDER:

This writ petition is filed seeking a writ of mandamus declaring the action of the respondents in imposing the punishment of reduction of basic pay by two incremental stages for a period of two years with cumulative effect, besides treating the period of suspension as 'not on duty', as illegal, arbitrary and unconstitutional.

2. Heard the counsel for the petitioner and Sri A.Rama Rao, Standing Counsel for the respondents.

3. It has been contended by the petitioner that he was initially appointed as a Conductor and while he was discharging his duties, during April, 1996, he was issued a charge memo for certain irregularities committed by him at Pulivendula Depot. The disciplinary authority has construed the same as misconduct and initiated disciplinary proceedings, and after conducting detailed enquiry and for the proven misconduct, the petitioner was placed under suspension. The petitioner unsuccessfully filed an appeal before the appellate authority. Subsequently, in the review filed by the petitioner, his suspension was revoked and he was reinstated into service. While so, a show cause notice dated 07.12.1996 was issued to the petitioner by the reviewing authority for reduction of his basic pay by two incremental stages for a period of two years with cumulative effect. Challenging the same, the present writ petition is filed.

4. The counsel for the petitioner contends that the reviewing authority had modified the major punishment of suspension from service

to another major punishment of reduction of pay by two incremental stages for a period of two years with cumulative effect. The reviewing authority ought to have considered the fact that the allegation now made against the petitioner is the lone allegation in his entire career, and therefore, the reviewing authority ought to have applied the principle of proportionality and imposed the punishment of reduction of pay by two incremental stages for a period of two years without cumulative effect.

5. The Standing Counsel for the respondents contended that the reviewing authority has rightly inflicted the punishment of reduction of pay by two incremental stages for a period of two years with cumulative effect and as the petitioner could not point out any major irregularity or illegality in the order passed by the reviewing authority, this Court should not normally interfere with the orders passed by the reviewing authority, and there are no merits in the writ petition and the same is liable to be dismissed.

6. This Court, having considered the said submission, is of the considered view that the reviewing authority could have imposed the punishment of reduction of pay by two incremental stages for a period of two years without cumulative effect that would have met the ends of justice, because the petitioner was already facing a major penalty of suspension. However, instead of modifying the major punishment of suspension to a minor punishment, the reviewing authority modified the major punishment of suspension to another major punishment of reduction of pay by two incremental stages for a period of two years with cumulative effect. The reviewing authority had already treated the period of suspension of the petitioner as 'not on duty'. If the orders of the reviewing authority are to be sustained, then the petitioner would be inflicted with a punishment of suspension from service and reduction of

pay by two incremental stages for a period of two years, that too, with cumulative effect. It would be multiplicity of punishments on the petitioner. Therefore, this Court is of the considered view that the punishment of reduction of pay by two incremental stages for a period of two years with cumulative effect imposed by the reviewing authority is too harsh a punishment, and is liable to be modified.

7. Accordingly, the writ petition is disposed of, modifying the punishment of reduction of pay by two incremental stages for a period of two years with cumulative effect to that of reduction of pay by two incremental stages for a period of two years without cumulative effect. There shall be no order as to costs. Miscellaneous petitions pending, if any, shall stand closed.

Date: 20.12.2018
DMG

ABHINAND KUMAR SHAVILI, J

