

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 32946 of 2010

ORDER:

This writ petition is filed under Article 226 of the Constitution of India, seeking to issue a writ of mandamus declaring the action of the respondents in implementing the punishment of deferment of petitioner's annual increment for a period of six months in concerned with final order dated 27.11.1989 after lapse of 21 years at the stage of retirement of the petitioner, as illegal and arbitrary. A consequential direction is also sought to release the entitled increments of the petitioner with proper fixation without implementing the final order dated 27.11.1989.

2. Heard Sri P. Venkateswara Rao, learned counsel for the petitioner and learned standing counsel for the respondents.

3. It has been contended by the learned counsel for the petitioner that the petitioner was initially appointed as conductor on 21.09.1979 in the respondent corporation and later promoted as Assistant Depot Clerk. While he was discharging duties, the checking officials of the respondent corporation conducted a check and found that the petitioner had indulged in cash and ticket irregularities and for the alleged irregularities, the disciplinary authority

imposed punishment of deferment of annual grade increment for a period of two years without cumulative effect and the said punishment came to an end by 01.11.2010. It has been further contended that thereafter, the petitioner was called by the authority and informed that because of one pending punishment of deferment of annual increment with cumulative effect for six months by final order dated 27.11.1989, he cannot get ADC promotional increment and the same will be implemented in the month of February, 2011. It has also been contended that no enquiry was conducted before imposing the said punishment and therefore the final order dated 27.11.1989 shall not be implemented. The grievance of the petitioner is that if the said punishment is implemented, the petitioner will be losing two annual increments which are going to be restored in concerned with the final order dated 06.02.2008 and ADC promotional increment.

4. Learned standing counsel for the respondents has contended that after following the due procedure, the respondents have imposed the punishment and no illegality has been committed by the respondents.

5. This Court having considered the rival contentions made by both parties, is of the considered view that the respondents have imposed the punishment of

deferment of annual grade increment for a period of six months with cumulative effect without conducting any enquiry, which is against the law laid down by the Apex Court in a decision reported in **KULWANT SINGH GILL V STATE OF PUNJAB** ¹

6. In view of the same, the writ petition is allowed setting aside the impugned orders, dated 27.11.1989 passed by the disciplinary authority. However, the petitioner will be entitled only for notional increment without any monetary benefit. No order as to costs. Miscellaneous petitions, if any pending in this writ petition shall stand closed.

12th October, 2018
cbs

ABHINAND KUMAR SHAVILI, J

¹ 1990 (2) SCALE 597

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Writ Petition No. 32946 of 2010
(allowed)

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