

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 20792 of 2002

ORDER:

This writ petition is filed seeking a writ of certiorari calling for the records in connection with I.D.No.153 of 1999 on the file of the 1st respondent - Labour Court and quash the award dated 03.01.2001 passed in the said I.D., only to the extent of withholding of five increments and not granting back wages and attendant benefits.

Heard Sri G. Ravi Mohan, learned counsel for petitioner and learned Standing Counsel for TSRTC.

The brief facts are that the petitioner was appointed as Driver in the respondent Corporation on 23.03.1985. Thereafter, as he was suffering from ill-health, he could not attend duty and sent a leave application to the authorities through his co-driver and when he approached the authorities to report for duty, they refused him to do so and on the allegation of unauthorized absence from duty, issued a charge sheet against him. After conducting a domestic enquiry, the respondent corporation removed him from service vide order dated 07.01.1995. Challenging the said order, he unsuccessfully preferred an appeal and thereafter filed I.D.No.153 of 1999 under Section 2-A(2) of Industrial Disputes Act, 1947 before the 1st respondent - Labour Court. By order dated 03.01.2001, the Labour Court was pleased to pass order in his favour by setting aside the order of removal and directed the respondent Corporation to reinstate him into service with

continuity of service, but without back wages and attendant benefits. Further, the Labour Court imposed the punishment of withholding of five annual increments with cumulative effect. Challenging the same, he filed the present writ petition only to the extent of withholding of five increments with cumulative effect.

Learned counsel for the petitioner contended that the Labour Court cannot impose alternative punishment of withholding of five annual increments with cumulative effect while setting aside the orders of removal and further contended that the petitioner is also entitled for back-wages and attendant benefits.

Learned Standing Counsel for the respondent Corporation contended that the Labour Court had rightly modified the major punishment of removal to that of reinstatement of the petitioner into service with continuity of service and withholding of five increments with cumulative effect and, therefore, no interference is called for from this Court.

Having considered the rival contentions of the parties, this Court is of the considered view that when the Labour Court modified the punishment of removal to that of withholding of five increments, it should be understood as that of without cumulative effect, and the respondent Corporation cannot insert certain words in the order and convert the punishment of withholding of five increments with cumulative effect. Therefore, ends of justice would be met if a

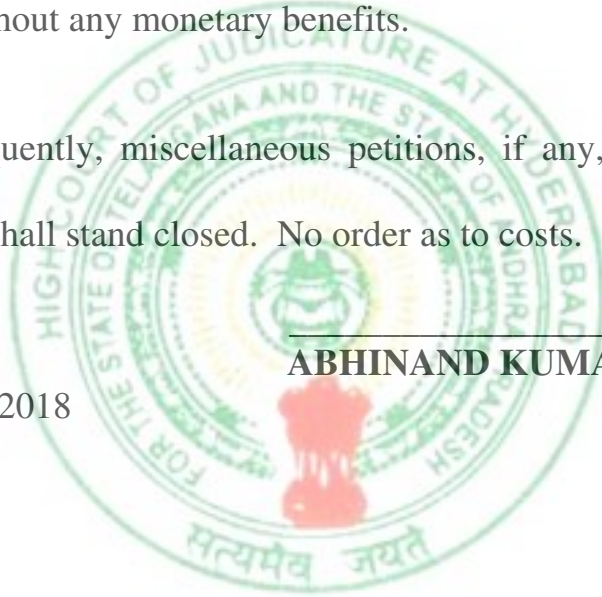
clarification is given by this Court that withholding of five increments should be understood as without cumulative effect. Therefore, the respondent Corporation is directed to treat the modified punishment imposed by the Labour Court as that of withholding of five increments without cumulative effect.

In view of the above, the Writ Petition is allowed to the extent of withholding of five increments without cumulative effect and the respondent Corporation is directed to grant notional benefits to the petitioner without any monetary benefits.

Consequently, miscellaneous petitions, if any, pending in the writ petition shall stand closed. No order as to costs.

29th October, 2018
cbs

ABHINAND KUMAR SHAVILI, J



HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI



Writ Petition No. 20792 of 2002
(allowed)

29th October, 2018

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