

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P. No.14303 of 2007ORDER:

This writ petition is filed seeking the following relief:

“To declare the office order No. M1/ 02(09) 2003-MPL01, dated 09.02.2004 passed by the 3rd respondent in imposing major punishment of deferment of petitioner annual increments for a period to two years which shall have an effect on the future increments duly treating the suspension period as not of duty for all purposes and proceedings No. Pa/ 19(85) 2004-DVM, dated 01.03.2005 passed by the 2nd respondent in conforming the 3rd respondent order, as illegal and arbitrary and set aside the same with all consequential benefits including deferred increments, continuity of service and arrears of pay.”

2. Heard Sri P.Govindarajulu, the counsel for the petitioner and Sri B.Mayur Reddy, Standing Counsel for the Respondent-Corporation.

3. It has been contended by the petitioner that he was appointed as Conductor, and while he was discharging duties as such, the respondent-Corporation issued a charge sheet on 23.07.2003, on the ground that he caused the death of an intending passenger by not closing the conductor door after boarding of the passengers, and the said act was constructed as misconduct and conducted regular departmental enquiry and after conducting regular departmental enquiry, a major punishment of deferment of the petitioner's annual increments for a period of two

years having effect on the future increments, for the proven misconduct. Challenging the same, the present writ petition is filed.

4. It has been contended by the learned counsel for the petitioner that the punishment of determent of the petitioner's annual increments for a period of two years having effect on the future increments is too harsh. Learned counsel further contended that the disciplinary authority ought to have taken a lenient view and imposed a punishment of determent of annual increments for a period of two years with cumulative effect to that of determent of annual increments for a period of two years without cumulative effect.

5. The Standing Counsel appearing for the respondent-Corporation had contended that the charge framed against the petitioner is very serious in nature and the disciplinary authority had imposed the punishment of removal for the proven misconduct in the enquiry. Learned Standing Counsel further contended that the disciplinary authority had taken a lenient view and no further lenient view can be taken, and the writ petition is liable to be dismissed.

6. This Court, having considered the submissions made by the parties, is of the considered view that the disciplinary authority ought to have imposed a punishment of determent of annual increments for a period of two years without cumulative effect, instead of with cumulative effect. Therefore, ends of justice would be met if the punishment imposed by the disciplinary authority is modified to that of determent of annual increments for a period of two years without cumulative effect, instead of with cumulative effect.

7. Accordingly, the writ petition is disposed of, modifying the punishment imposed by the disciplinary authority to that of determent of

annual increments for a period of two years without cumulative effect. It is made clear that the above modified punishment is without any monetary benefits. There shall be no order as to costs. Miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

Date: 30.10.2018
DMG

