

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 14637 of 2003

ORDER:

This writ petition is filed seeking a writ of certiorari calling for the records in connection with I.D.No.313 of 2000 on the file of the 1st respondent - Labour Court and quash the award dated 20.06.2002 passed in the said I.D., to the extent of not granting continuity of service, back wages and other attendant benefits, holding it as illegal and arbitrary.

Heard Ms. K. Udaya Sri, learned counsel for petitioner and learned Standing Counsel for the 2nd respondent corporation.

It has been contended by the petitioner that he was appointed as Conductor in the respondent Corporation in the year 1994 and while he was discharging his duties on 29.03.1999 the officials of the respondent corporation conducted a check and found that he had indulged in cash and ticket irregularities. The respondent corporation construed his conduct as misconduct and after initiating disciplinary proceedings and after conducting a regular enquiry, the disciplinary authority ordered for deletion of his name from the approved list/selection list on the ground that he was not suitable for regular appointment as he had indulged in irregularity. The appellate and reviewing authorities confirmed the said punishment by proceedings dated 28.09.1999 and 07.08.2000 respectively. Aggrieved by the same, he filed I.D.No.313 of 2000 on the file of the 1st respondent-

Labour Court under Section 2-A(2) of Industrial Disputes Act, 1947. By order dated 20.06.2002, the Labour Court was pleased to pass order in his favour by setting aside the order of termination and directing the 2nd respondent corporation to issue fresh appointment of casual conductor to him by reducing his pay to three annual increments with cumulative effect. Challenging the same, he filed the present writ petition.

Learned counsel for the petitioner contended that the Labour Court cannot impose alternative punishment of reducing his pay to three annual increments with cumulative effect while setting aside the orders of termination and further contended that the petitioner is also entitled for continuity of service, back-wages and attendant benefits.

Learned Standing Counsel for the respondent Corporation contended that the Labour Court had rightly modified the major punishment of termination to that of fresh appointment and reduction of pay to three annual 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 while setting aside the orders of termination, the Labour Court ought not to have imposed the punishment of reduction of pay to three annual increments with cumulative effect. Therefore, ends of justice would be met if the order of the Labour Court to the extent of reduction of pay to three annual

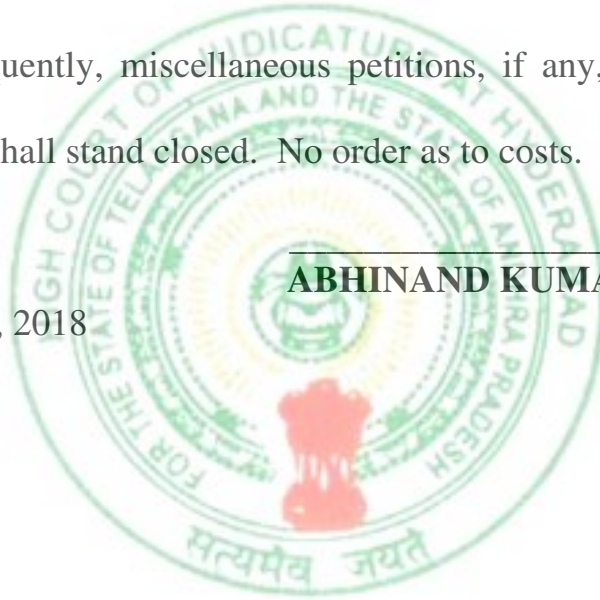
increments with cumulative effect is modified to that of without cumulative effect.

In view of the above, the Writ Petition is partly allowed and the order of the Labour Court to the extent of reduction of pay to three annual increments with cumulative effect is modified to that of 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.

ABHINAND KUMAR SHAVILI, J

1st November, 2018
cbs



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(partly allowed)

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