

HON' BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P. No. 27930 of 2009

ORDER:-

This writ petition is filed for the following substantive relief:

“...to issue an order in the nature of Writ of Mandamus declaring the proceedings in PA/ 19(198)/ 2007-DY.CTM; KR, dated 30.11.2007 passed by the 2nd respondent and Final Order No. 01/ 399(4)/ 2005-HSDB, dated 30.12.2006 passed by the 3rd respondent insofar as reducing the pay of the petitioner by two incremental stages which shall have its effect on future increments besides treating the suspension period as “not on duty”, as illegal, arbitrary and unjust and consequently set aside the same and further direct the respondents to grant continuity of service including reduced increments with all attendant benefits including back-wages and arrears.”

Heard Sri P. Govinda Rajulu, learned counsel for the petitioner and Smt.D.Radhika, learned Standing Counsel for A.P.S.R.T.C. appearing on behalf of the respondents and perused the material placed on record.

The brief facts of the case are that the petitioner was working as Conductor in the respondent-Corporation. While so, it is alleged that on 04.09.2005, the petitioner misbehaved and abused the controller and superior officials with filthy language. The enquiry officer conducted preliminary enquiry and filed a report dated 12.11.2005 holding that the allegations made against the petitioner were proved, based on which, the 3rd respondent placed him under suspension by

order dated 19.11.2005. Thereafter, the 3rd respondent issued show cause notice to the petitioner, who submitted explanation thereto, however, the 3rd respondent, by proceedings dated 30.12.2006, imposed punishment of deferment of two annual increments with cumulative effect besides treating the suspension period as “not on duty”. Challenging the same, the petitioner preferred an appeal, however, the 2nd respondent, by proceedings dated 30.11.2007, dismissed the appeal confirming the proceedings of the 3rd respondent. Being aggrieved by the proceedings of the 2nd respondent, the present writ petition is filed.

The learned counsel for the petitioner submits that the disciplinary authority, while imposing punishment, has erroneously observed that two annual grade increments of the petitioner shall be deferred with cumulative effect, and the 2nd respondent-appellate authority, without application of mind, has erred in confirming the order of the disciplinary authority and prays to set aside the proceedings of the 2nd and 3rd respondents.

The learned Standing Counsel contends that the disciplinary authority and the appellate authority have rightly imposed the punishment of deferment of annual increments for two years with cumulative effect besides treating the

suspension period as “not on duty”, and hence, no interference is called for by this Court.

Having considered the rival submissions made by the learned counsel for both the parties, this Court is of the opinion that the 2nd respondent - appellate authority, while confirming the punishment imposed by the disciplinary authority, ought not to have imposed punishment of deferment of annual increments for a period of two years with cumulative effect. Therefore, this Court feels that ends of justice would be met if the punishment of deferment of annual increments for a period of two years with cumulative effect is modified to that of without cumulative effect.

Hence, the writ petition is disposed of. The order dated 30.11.2007 passed by the 2nd respondent – appellate authority is modified to that of deferment of annual increments for a period of two years without cumulative effect. No order as to costs.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

ABHINAND KUMAR SHAVILI, J

23-10-2018

bcj