

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.23100 OF 2004

ORDER:

This writ petition is filed seeking a Writ of Mandamus declaring proceedings No.DM/BHEL Letter No.01/2 (10)/98-HCR, dated 02.07.1998 and Award, dated 01.08.2002, passed by respondent No.3 in I.D.No.116 of 1999 in so far as not granting back wages and also imposing of punishment of stoppage of two annual grade increments with cumulative effect as illegal and arbitrary.

2. Heard Sri P. Raghavender Reddy, learned counsel for petitioner, Sri V.T.M. Prasad, learned standing counsel for Corporation appearing on behalf of respondent Nos.1 and 2, and the learned Government Pleader for Labour appearing for respondent No.3.

3. The brief facts are that the petitioner was appointed as Driver in respondent's Corporation on 08.02.1978 and his services were regularized on 31.07.1979; that on 02.05.1995, while driving the bus bearing No.AEZ 1998 on the route from Koti to Patancheruv in the last trip at 9.45 p.m., he alleged to have caused an accident and thereupon, the respondent Corporation had initiated disciplinary proceedings against him alleging misconduct. After conducting regular enquiry, the petitioner was removed from service vide proceedings, dated 02.07.1998. Challenging the said order, the

petitioner preferred an appeal and the appellate authority rejected the same. Aggrieved by the same, the petitioner preferred I.D.No.116 of 1999 under Section 2-A (2) of Industrial Disputes Act, 1947. By Award, dated 01.08.2002, the Industrial Tribunal was pleased to set aside the order of removal and directed the respondent Corporation to reinstate the petitioner with continuity of service and denied back wages and also ordered stoppage of two annual increments with cumulative effect. But, the respondent Corporation imposed the punishment of withholding of two increments with cumulative effect and not granting back-wages. Challenging the same, the petitioner filed the present writ petition only to the extent of denying the back wages and withholding of two increments with cumulative effect.

4. The learned counsel for the petitioner contended that the Tribunal ought not to have ordered for stoppage of two annual increments with cumulative effect and also ought not to have denied the back wages and further contended that the petitioner is also entitled for back-wages.

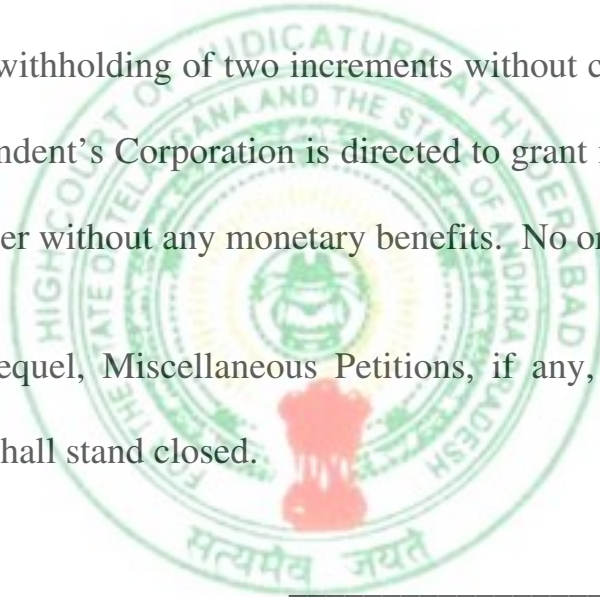
5. The learned Standing Counsel for the respondent Corporation contended that since the Tribunal had modified the major punishment of removal to that of withholding of two increments with cumulative effect, it should be understood that another major penalty of withholding of two increments with cumulative effect has been imposed by the Tribunal and accordingly, the Corporation had

imposed the punishment of withholding of two increments with cumulative effect.

6. Having considered the rival contentions of the parties, this Court is of the considered view that when the Tribunal modified the punishment of removal to that of withholding of two increments with cumulative effect, the same has to be modified to that of without cumulative effect.

7. In view of the above, the Writ Petition is allowed in part to the extent of withholding of two increments without cumulative effect and the respondent's Corporation is directed to grant notional benefits to the petitioner without any monetary benefits. No order as to costs.

As a sequel, Miscellaneous Petitions, if any, pending in this writ petition shall stand closed.



ABHINAND KUMAR SHAVILI, J

DECEMBER 15, 2018

Mgr