

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.24584 OF 2004

ORDER

This writ petition is filed seeking the following relief:

“...to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring that the action of the respondents in imposing the penalty of withholding of petitioner's annual increment for a period of 2 years which shall have effect of postponing her future increments and treating the suspension period not on duty for all purposes is bad, arbitrary, unjust, unreasonable by setting aside the final order No.02/95(22)/2001-MBNR dated 26-03-2002 of R1 herein and consequential order dated 27-07-2004 of R2 herein and consequently direct the respondents herein to add the withheld increments and treat the suspension period as on duty of the petitioner service for all purposes and pass such other order or orders.”

Heard Sri P.Venkateshwer Rao, learned counsel appearing for the petitioner and Sri B.Mayur Reddy, learned Standing Counsel appearing for the respondent-Corporation.

It is the case of the petitioner that she was appointed as a Conductor in the respondent-Corporation in the year 1996 and was discharging her duties as such. While so, on 11.08.2001, the checking officials exercised a check and found that the petitioner had indulged in cash and ticket irregularities. This incident was construed as a misconduct,

the respondent-Corporation initiated disciplinary proceedings. After conducting departmental enquiry, and for the proven misconduct, the disciplinary authority had imposed the punishment of withholding of annual increment for a period of two years which shall have effect on his future increments vide proceedings dated 26.3.2002. Challenging the same, the petitioner preferred an appeal before the appellate authority but the same was rejected as it was time barred. Hence, the present writ petition.

Learned counsel appearing for the petitioner submits that the appellate authority ought to have decided the appeal preferred by the petitioner on merits in stead of rejecting it on mere technicalities and laches.

Learned Standing Counsel appearing for the respondent-Corporation contends that the disciplinary authority has rightly imposed the punishment on the petitioner for the proven misconduct in the enquiry and the appellate authority has also rightly rejected the appeal as it was preferred with a delay of two months and hence, no interference is called for by this Court.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that ends of justice would be met if the order passed by

the appellate authority is set aside and the matter is remanded to the appellate authority.

Accordingly, the Writ Petition is allowed. The order 27.07.2004 passed by the appellate authority is set aside and the matter is remanded to the appellate authority. The appellate authority is directed to re-consider the matter and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order. No costs.

28th September, 2018

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JUSTICE ABHINAND KUMAR SHAVILI

