

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 23327 of 2002

ORDER:

This writ petition is filed seeking a writ of certiorari calling for the records in connection with I.D.No.99 of 2001 on the file of the 2nd respondent - Labour Court and quash the award dated 13.11.2001 passed in the said I.D., only to the extent of withholding of two annual increments with cumulative effect and awarding 50% back wages.

Heard Sri P. Govindarajulu, learned counsel for petitioner and learned Standing Counsel for the 1st respondent corporation.

The brief facts are that the petitioner was appointed as Garbage Cleaner in the respondent Corporation on 23.12.1997. While so, the management issued a charge sheet on 22.12.1999 alleging that he absented from duty unauthorisedly without any intimation or sanction of leave with effect from 02.11.1999 to 22.12.1999. The respondent corporation construed his conduct as misconduct and after initiating disciplinary proceedings and after conducting a regular enquiry, the disciplinary authority imposed on him punishment of removal from service vide orders dated 15.03.2000. Challenging the said orders, he unsuccessfully preferred an appeal and a review and, later, filed I.D.No.99 of 2001 on the file of the 2nd respondent-Labour Court under Section 2-A(2) of Industrial Disputes Act, 1947. By order dated 13.11.2001, the Labour Court was pleased to pass order in his favour by setting aside the order of removal and directed the respondent

Corporation to reinstate him into service with continuity of service and 50% back wages. The Labour Court also imposed punishment of stoppage of two annual increments with cumulative effect. Challenging the same, he filed the present writ petition only to the extent of withholding of two annual increments with cumulative effect and 50% back wages.

Learned counsel for the petitioner contended that the Labour Court cannot impose alternative punishment of withholding of two annual increments with cumulative effect while setting aside the orders of removal and further contended that the petitioner is also entitled for full back-wages.

Learned Standing Counsel for the respondent Corporation contended that the Labour Court had rightly modified the major punishment of removal to that of reinstatement of the petitioner into service with continuity of service and 50% back wages and withholding of two 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 removal, the Labour Court ought not to have imposed the punishment of withholding of two annual increments with cumulative effect. Therefore, ends of justice would be met if the order of the Labour Court to the extent of withholding of two 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 withholding of two 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.

6th November, 2018
cbs

ABHINAND KUMAR SHAVILI, J



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Writ Petition No.23327 of 2002
(disposed of)

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