

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.23442 of 2002

ORDER:

This writ petition is filed seeking the following relief:

“For the reasons stated in the accompanying affidavit the petitioner herein prays that this Hon'ble Court may be pleased to issue a writ of mandamus declaring the proceedings of the 2nd and 3rd respondents dated 30.06.1995 and 26.06.1996 insofar against to the petitioner as illegal and arbitrary and set aside the same with all consequential benefits including arrears and pass such other order or orders as this Hon'ble Court deems fit.”

(reproduced verbatim)

Heard Sri P.Govinda Rajulu, learned counsel for the petitioner and learned standing counsel for the respondent corporation.

It has been contended by the petitioner that he was appointed as Conductor in the respondent corporation. While so, on the allegation that he was unauthorisedly absented from duty, the disciplinary authority issued a charge sheet on 26.09.1994 contrary to the regulations, for which he submitted explanation on 07.11.1994. But, without considering his explanation, the disciplinary authority removed him from service vice proceedings dated 05.04.1995. Questioning the same, he preferred an appeal before the appellate authority. The appellate authority vide orders dated 30.06.1995 directed his reinstatement into service while reducing his basic pay to the minimum of the time scale of Conductor Grade-II for a period of two years with cumulative effect. Challenging the same he preferred a review before the reviewing authority, the 3rd respondent. The reviewing authority rejected the review petition

vide orders dated 26.06.1996 without properly appreciating the contentions raised by him. Aggrieved by the same, he filed the present writ petition.

It has been contended by the learned counsel for the petitioner that the modified punishment of removal to that of reduction of pay of the petitioner by two incremental stages for a period of two years with cumulative effect is too harsh. Learned counsel further contended that the appellate authority ought to have taken a lenient view and imposed a punishment of reduction of pay by two incremental stages for a period of two years without cumulative effect.

Learned standing counsel for the respondent corporation has contended that the charges framed against the petitioner are very serious in nature and the disciplinary authority had imposed the punishment of removal for the proven misconduct in the enquiry. Learned standing counsel further contended that the appellate authority had taken a lenient view and no further lenient view can be taken and the writ petition is liable to be dismissed.

This Court having considered the submissions made by both the parties is of the considered view that the appellate authority ought to have imposed punishment of reduction of pay by two incremental stages for a period of two years without cumulative effect instead of with cumulative effect. Therefore, ends of justice would be met if the punishment imposed by the appellate authority is modified to that of reduction of pay by two incremental stages for a period of two years without cumulative effect instead of with cumulative effect.

Accordingly, the Writ Petition is disposed of modifying the punishment imposed by the appellate authority to that of reduction of pay by two incremental stages for a period of two years without cumulative effect. It is made clear that the above modified punishment is without any monetary benefits. No order as to costs.

Consequently, miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVIL, J

16th November, 2018
cbs



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(disposed of)

16th November, 2018

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