

pHON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.25225 of 2004

ORDER:

1. This writ petition is filed seeking to issue a writ of Mandamus declaring the action of the 2nd respondent in imposing punishment of reduction of pay of the petitioner to the minimum time scale of conductor for a period of two years with cumulative effect, while reinstating the petitioner into service, by proceedings dated 15.9.2003 as illegal and arbitrary, and consequently, to direct the respondents to give the regular time scale to the petitioner instead of minimum time scale with full back wages and with all attendant benefits.

2. Heard Smt. B. Malleswari, learned counsel for the petitioner and Sri A. Rama Rao, learned standing counsel for the respondent corporation.

3. It has been contended by the petitioner that he was appointed as conductor in the respondent Corporation and while he was discharging his duties, on 28.4.1998, the then Depot Manager, Pulivendula Depot issued charge sheet on the ground of unauthorized absence, but the said charge sheet was not served on the petitioner, and thereafter, without giving any opportunity to the petitioner, the respondent-Corporation conducted ex parte enquiry and removed the petitioner from

service vide proceedings dated 25.5.1999, aggrieved by which, the petitioner filed appeal and the said appeal was rejected and then, the petitioner filed W.P.No.9522 of 2000 before this Court and this Court remanded the matter to reconsider the decision relating to removal of the petitioner and explore the possibility of imposition of other punishments contemplated by the regulations and thereafter, the 2nd respondent passed the impugned order reinstating the petitioner into service and reducing his pay on such reinstatement to minimum time scale of conductor for a period of two years with cumulative effect. Aggrieved by the same, the present writ petition is filed.

4. It has been contended by the learned Counsel for the petitioner that the punishment imposed by the 2nd respondent is too harsh and the 2nd respondent ought to have taken a lenient view and he ought to have imposed atleast the aforesaid punishment without cumulative effect.

5. Learned Standing Counsel for the respondent corporation contended that the charge framed against the petitioner is serious in nature and that the 2nd respondent imposed the punishment under the proceedings impugned for the proven misconduct in the enquiry by taking a lenient view, and no further lenient view can be taken and the writ petition is liable to be dismissed.

6. This Court having considered the submissions made by both the parties is of the considered view that the 2nd respondent ought to have imposed the punishment of reduction of pay to the minimum time scale of conductor for a period of two years without cumulative effect instead of with cumulative effect. As it is the contention of the petitioner that since he was suffering from ill-health, he could not attend duty, the 2nd respondent ought to have appreciated the medical certificates furnished by the petitioner and ought to have imposed the punishment commensurate to the charge, but ought not to have imposed major punishment of reduction of pay scale to the minimum time scale of conductor for a period of two years with cumulative effect. Therefore, ends of justice would be met if the punishment imposed by the 2nd respondent is modified to that of reduction of pay to the minimum time scale of conductor for a period of two years without cumulative effect instead of with cumulative effect.

7. Accordingly, the Writ Petition is disposed of modifying the punishment of reduction of pay of the petitioner-K.B.N. Reddy, to the minimum time scale of conductor for a period of two years with cumulative effect to that of reduction of pay to the minimum time scale of conductor 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. Miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

Date: 19/12/2018
Nn.



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19.12.2018

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