

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.23135 of 2003

ORDER:

The Petitioner is challenging the action of the Respondents in imposing a punishment of deferment of annual increment for a period of two years and which shall have an effect of postponing future increment and also treating the period of suspension as “not on duty.”

Heard Smt.K.Veda Vathi, counsel for the petitioner and Sri P.Durga Prasad, Standing Counsel for the respondents. It has been contended by the petitioner that he was appointed as Conductor during the year 1990 and while the petitioner was discharging his duties, during the year 1996, it has been alleged that the petitioner had indulged in carrying prohibited liquor and the said conduct of the petitioner was construed as misconduct and the Disciplinary Authority had initiated disciplinary proceedings and after conducting regular enquiry, has imposed punishment of deferment of annual increment for a period of two years which will have effect of postponing future increments besides treating the suspension period as ‘not on duty.’

The counsel for the petitioner submits that the petitioner has preferred an appeal and the Appellate Authority has rejected Appeal vide proceedings dated 15.05.2002 and there afterwards filed a Review before the Reviewing Authority and the Reviewing Authority had also rejected the Review vide orders dated 25.09.2002.

The counsel for the petitioner contend that for the same allegation, criminal proceedings were also initiated against the petitioner and the competent criminal court was pleased to acquit the petitioner of the criminal charge in CC.No.268/2000. The said offence was compounded before the lokadalat on 21.09.2000 in CC case No. 268/2000. The counsel for the petitioner submits that this is the lone misconduct in the entire career of the petitioner and the Disciplinary Authority ought to have imposed a minor penalty instead of major penalty of withholding of increment for a period of two years with cumulative effect. The petitioner contends that the Disciplinary Authority ought to have applied the proportionality theory and imposed a lesser punishment instead of imposing major penalty and contends that appropriate orders be passed directing the respondents to modify the punishment of withholding of one increment for a period of two years with cumulative effect to that of without cumulative effect.

The Standing Counsel appearing for the respondents contends that the case of the petitioner will be examined by the Disciplinary Authority in accordance with law upon a representation being submitted by the petitioner seeking modification of the punishment of deferment of one annual increment for a period of two years having effect on future increments to that of without effect on future increments.

This court having considered the rival submissions made by the parties, is of the considered view that this Writ Petition may be disposed of

directing the petitioner to submit a fresh representation to the Disciplinary Authority and the Disciplinary Authority shall consider the said representation and pass appropriate orders by modifying the punishment of deferment of increment for a period of two years with effect on future increment is modified to that effect of without effect on future increment by duly taking into account that this is the first allegation in the entire career of the petitioner and also the fact that criminal case has been settled in the lokadalat. However, the said modification order is without any monetary benefit, it is only for the purpose of notional benefit. Consequently, miscellaneous petitions, if any, pending in the writ petition, shall stand closed. No order as to costs.

ABHINAND KUMAR SHAVILI, J

Date: 26th December, 2018
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HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI



Writ Petition No.23135 of 2003

26th December, 2018

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