

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 27188 of 2003

ORDER:

This writ petition is filed seeking a writ of certiorari calling for the records in connection with I.D.No.135 of 1999 on the file of the 1st respondent - Labour Court and quash the award dated 04.02.2002 passed in the said I.D., only to the extent of denial of continuity of service, back wages and attendant benefits and further imposition of deferment of six annual increments with cumulative effect.

Heard learned counsel for petitioner and learned Standing Counsel for the 2nd respondent corporation.

The brief facts are that the petitioner was appointed as Conductor in the respondent Corporation in the year 1988 and while he was discharging his duties on 13.11.1998 the officials of the respondent corporation conducted a check and found that he had indulged in cash and ticket irregularities. 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 24.02.1999. Challenging the said orders, he unsuccessfully preferred an appeal and, thereafter, filed I.D.No.135 of 1999 on the file of the 1st respondent-Labour Court under Section 2-A(2) of Industrial Disputes Act, 1947. By award dated 04.02.2002, the Labour Court was pleased to pass award in his favour by setting aside

the order of removal and directed the respondent Corporation to reinstate him into service as conductor as fresh recruit, but without continuity of service, back wages and attendant benefits. Further, the Labour Court imposed the punishment of withholding of three annual increments with cumulative effect. Challenging the same, he filed the present writ petition only to the extent of withholding of six increments with cumulative effect and denial of continuity of service, back wages and attendant benefits.

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

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 as fresh recruit and withholding of six 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 the while setting aside the orders of removal, the Labour Court ought not to have imposed the punishment of withholding of six increments with cumulative effect.

Apart from that, the petitioner was directed to be appointed as fresh conductor. This Court having observed that this is a lone charge in the entire career of the petitioner, is of the considered view that ends of justice would be met if the award of the Labour Court to the extent of withholding of six increments with cumulative effect is modified to that of without cumulative effect and the petitioner is granted continuity of service only for the purpose of terminal benefits without any monetary benefits.

In view of the above, the Writ Petition is partly allowed and the award of the Labour Court to the extent of withholding of six increments with cumulative effect is modified to that of without cumulative effect and the petitioner is also granted continuity of service only for the purpose of terminal benefits without any monetary benefits 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.

ABHINAND KUMAR SHAVILI, J

19th December, 2018
cbs

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Writ Petition No. 27188 of 2003
(allowed partly)

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