

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.18911 OF 2009

ORDER

1. This writ petition is filed seeking the following relief:

“.... to issue an order, direction or writ more particularly one in the nature of Writ of Mandamus declaring the action of the 1st respondent in issuing proceedings No.PA/19(31)/2008-SNG, dated 10.12.2008 insofar as imposing punishment of deferment of annual increments for a period of two years with cumulative effect and treating the period of removal as “Not on Duty”, as illegal, arbitrary and unjust, and consequently, to direct the respondents to grant increments to the petitioner and treat the removal period as ‘On Duty’ and pass such other order or orders as this Hon’ble Court may deem fit and proper under the circumstances of the case.”

2. Heard Sri G. Ravi Mohan, learned Counsel for the petitioner and the learned Standing Counsel for the respondents.

3. It is the case of the petitioner that he was appointed as Driver in the respondent-Corporation in the year 1989, and he was discharging his duties as such. While so, due to his illness, he applied for medical leave. The medical leave was sanctioned and thereafter, he extended his leave as he was attacked with T.B. The disciplinary authority construed the said extension of leave as unauthorized absence and initiated disciplinary proceedings against him. The disciplinary authority,

after conducting enquiry, and for the proven misconduct, imposed punishment of removal on the petitioner vide proceedings dated 16.6.2008. Against the said order, the petitioner filed appeal. The appellate authority vide order dated 10.12.2008 set aside the removal order, but however, imposed punishment of deferment of annual increments for a period of two years with cumulative effect besides treating the removal period as 'Not on duty'. Challenging the same, the present writ petition is filed.

4. Learned Counsel for the petitioner contends that without giving any opportunity to the petitioner, the disciplinary authority imposed punishment of removal and that the appellate authority while setting aside the removal order, ought not to have imposed punishment of deferment of annual increments for a period of two years with cumulative effect and it ought not have directed to treat the period of removal as 'Not on duty'.

5. Learned Standing Counsel for the respondent-Corporation contends that the appellate authority had already taken a lenient view and imposed the punishment of deferment of annual increment for a period of two years while directing to treat the period of removal as 'not on duty', and hence, no interference is called for by this Court.

6. Having considered the rival submissions made by the learned Counsel on either side, this Court is of the considered view that the appellate authority ought not to have imposed the punishment of deferment of annual increments for a period of two years with cumulative effect. Therefore, this Court feels that ends of justice would be met if the punishment of deferment of annual increments for a period of two years with cumulative effect is modified to that of deferment of annual increments for a period of two years without cumulative effect.

7. Accordingly, the Writ Petition is disposed of modifying the punishment of deferment of annual increments for a period of two years with cumulative effect, imposed by the appellate authority on the petitioner, to that of deferment of annual increment for a period of two years without cumulative effect and without monetary benefits. The order impugned is modified to the above extent only. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

25th October, 2018
Nn

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.18911 OF 2009



25.10.2018

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