

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.27798 of 2007

ORDER:

This writ petition is filed seeking to issue a writ of Mandamus declaring the action of the 3rd respondent in issuing the proceedings No.02/95 (166)/2003-DHN dated 30.1.2004 as illegal and arbitrary and to set aside the same and consequently to direct the respondents to grant increments to the petitioner.

Heard Sri G.Ravi Mohan, learned counsel for the petitioner and the Sri A.Rama Rao, learned standing counsel for the respondent corporation.

It has been contended by the petitioner that he was appointed as conductor in the year 1978. While he was discharging his duties as conductor, the checking officials of the respondent corporation had conducted a check and found that the petitioner had indulged in cash and ticket irregularities and the said act of the petitioner was construed as misconduct. It has been further contended by the petitioner that without conducting any enquiry, the respondent corporation had straight away imposed the punishment of deferment of one annual increment with cumulative effect vide proceedings dated 30.1.2004. The petitioner had preferred appeal but the appellate authority had not passed any orders. In those set of circumstances, the present writ petition is filed.

Learned counsel appearing for the petitioner had contended that the punishment imposed on the petitioner is a major

punishment. As per the judgment of the Hon'ble Supreme Court in the case of Kulwanth Singh Gill v State of Punjab¹, no major penalty can be imposed without conducting enquiry. Learned counsel for the petitioner further contended that the issue raised in this writ petition is covered by the orders passed in WP.No.21022 of 2007 dated 5.10.2007 wherein this Court held as follows:

“Therefore, the impugned order passed by the respondents imposing punishment of stoppage of two annual increments with cumulative effect is modified to that of stoppage of two annual increments without cumulative effect. However, the petitioner is not entitled to any monetary benefits arising out of this order, but he is entitled for fixation of pay notionally.

Learned standing counsel appearing for the respondent corporation had not disputed about the order passed by this Court, however, contended that the petitioner is not entitled for the relief as the petitioner was negligent in discharge of his duties and that the disciplinary authority has rightly imposed the punishment and no interference is called for.

This Court having considered the submissions made by the parties is of the considered view that the respondent corporation is not entitled to impose major penalty of deferment of annual increment for a period of one year with cumulative effect in view of the law laid down by the Hon'ble Supreme Court cited supra. Therefore, ends of justice would be met if the punishment of deferment of annual grade increment for a period of one year with

¹ 1991 SUPP (1) SCC 504

cumulative effect is modified to that of deferment of annual grade increment for a period of one year without cumulative effect.

Accordingly, the Writ Petition is disposed of setting aside the proceedings No.02/95 (166)/2003-DHN dated 30.1.2004 of the 3rd respondent and the punishment of deferment of annual grade increment for a period of one year with cumulative effect is modified to that of deferment of annual grade increment for a period of one year without cumulative effect, however, without monetary benefits. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

Date: 03/10/2018
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ABHINAND KUMAR SHAVIL, J

