

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 8340 of 2015

ORDER:

This writ petition is filed seeking a writ of certiorari calling for the records in connection with I.D.No.90 of 2006 on the file of the 2nd respondent - Labour Court and quash the award dated 05.06.2009 passed in the said I.D., only to the extent of withholding of two increments with cumulative effect and not granting back wages and attendant benefits.

Heard learned counsel for petitioner and learned Standing Counsel for the 1st respondent corporation.

It has been contended by the petitioner that he was appointed as Driver in the respondent Corporation on 20.11.1988./ While so, he was issued with a charge sheet dated 17.06.2001 on the allegation that he was absent from duty unauthorisedly. 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 17.09.2001. Challenging the said orders, he unsuccessfully preferred an appeal and a review and thereafter filed I.D.No.90 of 2006 on the file of the 2nd respondent-Labour Court under Section 2-A(2) of Industrial Disputes Act, 1947. By award dated 05.06.2009, the Labour Court set aside the order of removal and directed the respondent Corporation to reinstate the petitioner into

service with continuity of service, but without back wages and attendant benefits. Further, the Labour Court imposed punishment of deferment of two annual increments with cumulative effect. Challenging the same, he filed the present writ petition only to the extent of withholding of two increments with cumulative effect and denial of back wages and attendant benefits.

Learned counsel for the petitioner contended that the Labour Court cannot impose alternative punishment of withholding of two annual increments with cumulative effect while setting aside the orders of removal and further contended that the petitioner is also entitled for 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 with continuity of service and withholding of two annual 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 two annual increments with cumulative effect. Therefore, ends of justice would be met if the award of the Labour Court to the extent of withholding of two annual increments

with cumulative effect is modified to that of without cumulative effect.

In view of the above, the Writ Petition is partly allowed and the award of the Labour Court to the extent of withholding of two annual increments with cumulative effect is modified to that of without cumulative effect 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.

24th December, 2018
cbs

ABHINAND KUMAR SHAVILI, J



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Writ Petition No.8340 of 2015
(allowed partly)

24th December, 2018

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