

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.20752 of 2015

ORDER:

This writ petition is filed challenging the action of respondents in not permitting the petitioner to join duty in pursuance of the orders passed by the reviewing authority dated 27.03.1998.

Counsel for petitioner submits that the reviewing authority was pleased to modify the orders of removal to that of deferment of increment for a period of two years which will not have effect on his future increments and directed the petitioner to report to duty within seven days from the date of receipt of the reviewing authority's order. The petitioner could not report to duty and he has reported nearly after 11 years. The respondents have not considered the request of the petitioner for reinstatement in pursuance to the reviewing authority's order dated 27.03.1998.

Counsel for petitioner submits that the petitioner has met with an accident and suffered multiple injuries, consequent upon which, he could not join service pursuant to the orders of reviewing authority, and even the reviewing authority's order was communicated belatedly to the petitioner, therefore, contend that appropriate orders be passed directing the respondents to reinstate the petitioner as a Conductor in pursuance to the reviewing authority's order dated 27.03.1998.

The learned Standing Counsel appearing for respondents contend that when a lenient view was taken by the reviewing authority and modified the punishment of removal to that of deferment of increment for a period of two years which will not have effect on his future increments,

the petitioner ought to have been diligent and immediately reported to duty. Since the petitioner has reported to duty after 11 years from the date of reviewing authority's order, the question of considering the request of petitioner to reinstatement, would not arise. There are no merits in the writ petition and the same is liable to be dismissed.

This Court, having considered the rival submissions of the parties, is of the considered view that when the reviewing authority, in principle, has agreed to reduce the punishment of removal to that of deferment of increments for a period of two years which will not have effect on future increments, in all fairness, the authorities ought to have given one more opportunity to the petitioner as the petitioner has specifically pleaded that the reviewing authority's order was not communicated to the petitioner well within time. In view of the fact that this is the first allegation in the entire career of the petitioner and the age of the petitioner as on today is only 45 years, his case can be considered for reinstatement on humanitarian grounds, more so, when the reviewing authority has not communicated the orders passed by it to the petitioner within time. In view of the same, this Court is of the considered view that the case of the petitioner has to be considered for reinstatement in pursuance to the reviewing authority's orders dated 27.03.1998 subject to the petitioner satisfying other conditions like medical fitness and other aspects.

With these observations, the writ petition is disposed of. No order as to costs. Pending miscellaneous applications, if any, shall stand closed.

31st December, 2018
ajr

ABHINAND KUMAR SHAVILI, J