

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 11118 of 2002

ORDER:

This writ petition is filed by the petitioner seeking writ of certiorari calling for the records relating to and connected with I.D.No.84 of 2000 on the file of the Industrial Tribunal II, Hyderabad and quash the award dated 9.4.3001 passed therein insofar as denying back wages to the petitioner and imposing punishment of stoppage of (10) annual grade increments with cumulative effect is concerned as arbitrary and illegal and to issue a consequential direction to release all the consequential benefits such as back wages and other incidental benefits to the petitioner.

Heard Sri A.K.Jayaprakash Rao, counsel for the petitioner and Sri N.Vasudeva Reddy, standing counsel for 2nd respondent-Corporation.

It is contended by the petitioner that he was appointed as cleaner in the 2nd respondent-Corporation on 1.12.1968 and while he was working as such, during the year 1991, he met with an accident on 15.9.1991 and consequently he had to undergo medical treatment. The 2nd respondent-Corporation was also aware of the fatal accident suffered by the petitioner. Initially, he applied for leave and thereafter for various reasons he could not report to duty owing to his illness. This conduct of the petitioner was construed as misconduct by the 2nd respondent-Corporation and disciplinary proceedings were initiated against the petitioner and after conducting detailed enquiry, he was removed from service vide orders dated 18.6.1992. It is further contended by the

petitioner that he preferred appeal to the appellate authority but no orders were passed on the appeal. In those set of circumstances, the petitioner had approached the Labour Court III by filing I.D.No.135 of 1996 and later it was transferred to Labour Court I and again it was renumbered as I.D.No.328 of 2000 on administrative grounds. Subsequently, the case was transferred to Industrial Tribunal as per G.O.Ms.No.54 date 18.10.2000 and again the case was renumbered as I.D.No.85 of 2000. The Industrial Tribunal had come to the rescue of the petitioner on the ground of proportionality and observed that the petitioner is entitled for a lenient view and accordingly award is passed by setting aside the order of removal dated 18.6.1992 and directed the 2nd respondent-Corporation to reinstate the petitioner into service without back wages, however, with continuity of service. The Industrial Tribunal had further held that ends of justice would be met if a lesser punishment of stoppage of (10) annual grade increments with cumulative effect is imposed on the petitioner. Challenging the said award passed by the Industrial Tribunal, the present writ petition is filed only to the extent of denying back wages and imposing punishment of stoppage of (10) annual grade increments with cumulative effect.

Learned counsel appearing for the 2nd respondent-Corporation has contended that the petitioner is not entitled for any further lenience than what the Industrial Tribunal has already shown. The petitioner was absent from duties for long time and his whereabouts were not known to the 2nd respondent Corporation. Therefore, the Industrial Tribunal was justified in imposing the

punishment of stoppage of (10) annual grade increments with cumulative effect.

This Court having considered the rival submissions made by the parties is of the considered view that once the Industrial Tribunal has given a specific finding that the order of removal ought to be interfered on the ground of proportionality and observed that the petitioner is entitled for a lenient view, then the Industrial Tribunal ought not have imposed major punishment of stoppage of (10) annual grade increments with cumulative effect. This Court is of the considered view that ends of justice would be met, if a punishment of stoppage of (10) annual grade increments without cumulative effect is imposed.

Accordingly, Writ Petition is disposed of and the order passed by the Industrial Tribunal in I.D.No.85 of 2000 dated 9.4.2001 with regard to imposition of punishment of stoppage of (10) annual grade increments with cumulative effect is modified to imposition of punishment of stoppage of (10) annual grade increments without cumulative effect.

Miscellaneous petitions pending, if any, shall stand closed.
No order as to costs.

ABHINAND KUMAR SHAVILI, J

Date: 23/07/2018

lkv

