

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

W.P.No. 20341 OF 2000

ORDER:

This Writ Petition is filed challenging the proceedings No. P2/475 (1) 1998-Tiruvuru dated 15-06-2000 issued by the 3rd respondent, whereby major penalty of stoppage of one annual increment with cumulative effect was imposed, as illegal and arbitrary.

The petitioner was a driver attached to the 3rd respondent. On 20-01-1998 at about 9.15 hours, after attending his duty, the petitioner went to restroom to take rest as he has to attend another duty after sometime. While taking rest, there was an altercation. In the said altercation, one R.D.Rao, another driver of the same depot, fell down and, due to which, table glass was broken. However, the contention of the petitioner is that the said R.D.Rao, while talking to him, fell down on table and later on cycle *etc.*, which resulted to damage of table glass.

Basing on the report, charge sheet dated 26-03-1998 was issued calling explanation from the petitioner. On receiving explanation from the petitioner, the 3rd respondent, without ordering regular departmental enquiry, issued proceedings dated 06-05-1998 imposing penalty of withholding annual increment for a period of one year with cumulative effect. The said proceeding was challenged in W.P.No. 6633 of 1999. This Court, by order dated 05-04-1999, set aside the impugned punishment order on the ground that denial of increment with cumulative effect without holding a departmental enquiry was illegal and further held to take disciplinary action against the petitioner in terms of conduct and C.C.A. regulations. Later, a regular departmental enquiry was ordered by following necessary procedure. After completion of regular enquiry, the impugned proceedings was issued imposing penalty of stoppage of one increment with cumulative effect.

The challenge before this Court is on two grounds. The 1st ground is

that, when W.P.No. 6633 of 1999 was allowed setting aside the punishment imposed against the petitioner, the 3rd respondent ought not to have ordered fresh enquiry in the absence of any permission. The second ground is that the punishment imposed against the petitioner is shockingly disproportionate and, therefore, the same is liable to be set aside.

During the course of argument, learned counsel for the petitioner contended that punishment of stoppage of one increment with cumulative effect is a major punishment which is shockingly disproportionate to the gravity of misconduct and, therefore, the same is liable to be set aside.

The scope of judicial review under Article 226 of the Constitution of India is limited and, if Court finds that the findings are without any evidence or the penalty imposed against the employee is shockingly disproportionate, the Court can interfere. In the present case, the petitioner did not challenge the procedure followed by the respondents in conducting enquiry but only questioned the quantum of penalty on the ground that it was shockingly disproportionate.

The petitioner, who was a driver under the 3rd respondent, is supposed to behave properly but picking up quarrel with one R.D.Rao and pushing him while on duty, which resulted damage to table glass, directly amount to grave misconduct. Therefore, the major penalty of stoppage of one increment with cumulative effect is not a shockingly disproportionate.

In ***Mahindra and Mahindra Limited Vs. N.B. Narawade***^[1], the Apex Court held that discretion of interfering with punishment can only be exercised in the following cases:

- "(1) *The punishment was disproportionate to the gravity of misconduct so as to disturb the conscience of the Court, or,*
- (2) *The existence of any mitigating circumstances which requires the reduction of the sentence, or,*
- (3) *The past conduct of the workman which may persuade the Labour Court to reduce the punishment."*

In the present case, I find that the penalty of stoppage of one increment is not disproportionate to the gravity of misconduct. Hence, I am unable to exercise discretion to interfere with the proceedings issued by the 3rd respondent. Consequently, the Writ Petition is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. Pending miscellaneous petitions, if any, in this Writ Petition shall stand dismissed in consequence. No order as to costs.

M.SATYANARAYANA

MURTHY, J.

Date: 11th December, 2015.

JSK

[\[1\]](#) (2005) 3 SCC 134