

HON'BLE SRI JUSTICE S. RAVI KUMAR

WRIT PETITION No.5818 of 2003

ORDER:

This writ is filed challenging the order of respondent No.1 in imposing punishment of reduction of pay to minimum in the pay scale for a period of one year with cumulative effect and denying salary from the date of removal to the date of reinstatement through proceedings dated 12.12.2001 as illegal, arbitrary and violative of Articles 14 and 16 of Constitution of India and to give a direction to respondent No.1 to modify the said punishment order.

2. Petitioner is a R.P.F. constable in Vikarabad Railway Station, who was appointed on 20.07.1989. While so, a charge memo was given to him alleging that petitioner failed to prevent theft of about 1 ½ tons of Pig Iron Ingots on the intervening night of 17/18.08.1994 from Wagon No.ERBCX – 28141 EX: LGD (Lallaguda) to UBL (Hubli). A regular departmental enquiry was conducted and petitioner was found guilty of the charges and the appointing authority imposed punishment of removal and petitioner preferred appeal challenging the findings of the Enquiry Officer and punishment awarded to him. On a reappraisal of the material, the appellate authority dismissed the appeal and he preferred revision to Chief Security Commissioner, Secunderabad, who is the Revisional Authority and on a consideration of the material and also acquittal order passed by the Special Judicial First Class Magistrate (Railways), Guntakal, in respect of the same charges reviewed the punishment and ordered for reinstatement of petitioner into service by imposing punishment of reduction of pay to minimum in the existing pay scale for a period of one year with cumulative effect on his future increments and pension and treated the suspension period as on duty and the period from the date of removal till the date of reinstatement as leave without pay. Now, aggrieved by the punishment of reduction to minimum amount in the existing pay scale for a period of one year with cumulative

effect on his future increments and also on pension, present writ is filed.

3. Heard both sides.

4. Advocate for petitioner submitted that criminal Court on a full-fledged trial, acquitted the petitioner in respect of the same charge, therefore, punishing petitioner in departmental enquiry on the same material is illegal and against principles of natural justice. He further submitted that the revisional authority has not properly appreciated the material on record in ordering reduction of pay for a period of one year with cumulative effect both on future increments and pension and his order is highly improper and disproportionate to the charges alleged. He submitted that petitioner joined in the Department in 1989 and he discharged his duties to the satisfaction of all the concerned without any remark and this was the only instance where he was found fault. He submitted considering the facts and circumstances, at least the reduction of increment in respect of pension may be deleted.

5. Learned advocate for respondents submitted that petitioner was also suspended in the year 1992 and considering his previous record, the revisional authority rightly imposed punishment and that there are no grounds to interfere with the same.

6. I have perused the material including the order of the revisional authority. The charge alleged against the petitioner is that theft took place while he was on duty and that petitioner failed to prevent and detect theft of about 1 ½ tones of pig iron ingots committed by criminals on the intervening night of 17/18.08.1993 from Wagon No.ERBOXC 28141 Ex.LGD to UBL stabled in the yard. It appears the commodities were unloaded from the wagon between 11:00 p.m. and 11:45 p.m. on the intervening night of 17/18.08.1994 during which period petitioner was on duty as guard. Considering the evidence on record, the Enquiry Officer found that petitioner is negligent of duty and contra to Rules 41.1(a), 146.2(i) and 146.4 of RPF Rules, 1987, and found him guilty. The revisional authority

considering the entire record and also the criminal court's judgment, wherein petitioner was acquitted of the same charge, ordered for reinstatement, but imposed punishment of reduction of pay to the minimum existing scale of pay for a period of one year with cumulative effect and ordered that this should have effect on his future increments and pension. As rightly pointed out by advocate for petitioner, giving effect to this reduction to pension also, in my view is not justified because petitioner was given the punishment of reduction of pay giving effect on his future increments also, which is the punishment through out his service. Considering the same, the order of the revisional authority to the extent of giving effect of reduction of pay on the pension is set aside and the rest of the punishment holds good.

7. Accordingly, this writ petition is disposed of.

8. Miscellaneous petitions pending, if any, shall stand closed. No costs.

S. RAVI KUMAR, J

25th November 2015.

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