

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

WRIT PETITION No.3749 OF 2006

ORDER:

This Writ Petition is filed questioning the order, dated 05.01.2006, passed by respondent No.2, whereby and whereunder, the order passed by the disciplinary authority, imposing punishment of stoppage of one increment without cumulative effect on the petitioner, was confirmed.

2. Learned counsel for the petitioner submits that the show-cause notice was issued to the petitioner proposing to impose major punishment of stoppage of two increments with cumulative effect, but after submission of explanation by the petitioner, the disciplinary authority has passed order, dated 28.06.2005, imposing punishment of stoppage of one increment without cumulative effect, and the same was confirmed by the appellate authority by impugned order, dated 05.01.2006, which is erroneous. He further submits that when once the disciplinary authority contemplated imposition of major penalty, the punishment cannot be imposed without conducting regular enquiry. He further submits that in similar circumstances, this Court by order, dated 01.12.2005, in W.P.No.20838 of 2005 held that when punishment

proposed is a major punishment and when show-cause notice is issued for the said purpose, the disciplinary authority cannot impose penalty without conducting regular enquiry, though for minor penalty.

3. In W.P.No.20838 of 2005, this Court held thus:

“Where, however, the show cause notice itself indicates a major penalty is proposed against the employee, the employer is under obligation to conduct departmental enquiry. The fact that at a subsequent stage, it has decided to impose only a minor penalty cannot relieve the employer, of its obligation to conduct the enquiry. In such an event, it turns out to be a case of non-application of mind, or an act of face saving.”

4. The *lis* in this Writ Petition is squarely covered by the aforesaid judgment of this Court relied on by the learned counsel for petitioner.

5. In view of the same, this Writ Petition is also allowed following the judgment in W.P.No.20838 of 2005, dated 01.12.2005, and for the reasons recorded therein.

6. Miscellaneous Petitions, if any, pending in this Writ Petition, shall stand closed. No costs.

A. RAJASHEKER

REDDY, J
April 11, 2016
MD

