

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.21544 OF 2001

ORDER:

1. This writ petition is filed seeking to issue a writ of certiorari calling for the records relating to proceedings in Rc.No.688/C2-1/95, dated 11.1.1996 and also the orders dated 10.7.2001 issued by the 1st respondent, and to quash the same.

2. Heard Sri D. Balakishan Rao, learned Counsel for the petitioner and Sri N. Bhupal Reddy, learned Standing Counsel for the respondents.

3. It is the case of the petitioner that he is working in A.P. Residential Educational Institutions Society, and he was subjected to disciplinary proceedings on certain allegations of moral turpitude and indecent behaviour with two school girls in the institution, and after conducting a detailed enquiry, the 1st respondent issued a show cause notice dated 17.10.1995 proposing to impose punishment of reversion to a lower post of L.D.C. for a period of five years, for which, he submitted explanation. But the 1st respondent, contrary to the show cause notice, imposed punishment of reduction to the lower cadre of typist by treating his services in the cadre of typist at the last rank as on 1.1.1996 in the seniority list, vide proceedings dated 11.1.1996; and aggrieved by the said order, the petitioner preferred an appeal before the 3rd respondent, and that the 1st respondent communicated vide proceedings dated 11.7.1996 that the 3rd respondent rejected the appeal of the petitioner; and then, the petitioner filed a revision before the 1st respondent and that the said revision was rejected by the 1st respondent on 10.7.2001. Questioning the orders of the original

authority, appellate authority and revisional authority, the present writ petition is filed.

4. Learned Counsel for the petitioner submits that the punishment, which was imposed on the petitioner, is not enumerated in the list of punishments of the service rules of the respondents' schools. He further submits that the competent authority can impose the punishment proposed in the show cause notice or a lesser punishment on a consideration of the representation/explanation of the petitioner, but the disciplinary authority had imposed altogether a different and graver punishment than the one indicated in the show cause notice and therefore, the orders impugned herein are liable to be set aside.

5. Learned Standing Counsel for the respondents submits that the punishment was imposed on the petitioner for his proven misconduct in the enquiry and the charges are grave and serious in nature and therefore, the respondents have rightly imposed the punishment on the petitioner and the impugned orders do not warrant any interference.

6. From perusal of the records and the submissions made by the learned Counsel for the petitioner, it is obvious that respondents Nos.1 and 3 had not considered the issue properly and that they had altogether imposed a different and graver punishment than the one indicated in the show cause notice and further, the said punishment was not enumerated in the list of punishments of the service rules of the respondents, and the orders passed by respondents Nos.1 and 3 are not in accordance with the rules and regulations framed by themselves.

7. In the above circumstances, I feel it appropriate to set aside the orders passed by respondents Nos.1 and 3, and to remit the matter back to

the original authority-1st respondent to impose proper punishment in pursuance of the disciplinary proceedings said to have been conducted against the petitioner, in accordance with the service rules and to pass appropriate orders, after giving sufficient opportunity to the petitioner.

8. Accordingly, the Writ Petition is allowed setting aside the orders passed by respondents Nos.1 and 3 and remitting the matter back to the 1st respondent-original authority to impose proper punishment in pursuance of the disciplinary proceedings said to have been conducted against the petitioner, in accordance with the service rules, and to pass appropriate orders, after giving sufficient opportunity to the petitioner, and pass orders afresh. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

28th November, 2017
Nn

(ABHINAND KUMAR SHAVILI,J)



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