

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 14369 of 2001

ORDER:

This writ petition is filed seeking to issue a writ of certiorari calling for the records relating to and connected with the impugned orders dated 30.08.1999 and 11.05.2001, quash and set aside the same, holding it as arbitrary and illegal. Consequential relief of reinstatement of the petitioner into service with all benefits is also sought for.

2. Heard Smt. K. Rajya Lakshmi, counsel for the Petitioner and Sri Mehjerchand Nori, Counsel for the Respondent.

3. The Petitioner while working as a Fitter in the Respondent-Corporation had applied for medical leave during 1994, but the said leave was not sanctioned, and the Petitioner remained absent for more than 300 days. The said conduct of the Petitioner was construed by the Corporation as misconduct and disciplinary proceedings were initiated against the Petitioner. A charge memo was issued to the Petitioner on 05.05.1999 alleging that the Petitioner has unauthorisedly remained absent himself from duty. The Petitioner has submitted his explanation. However, the disciplinary authority, not satisfied with the said explanation of the Petitioner, has initiated disciplinary proceedings against the Petitioner by appointing an Enquiry Officer. After completion of the enquiry, the Enquiry Officer has submitted a report holding that the charges were proved. Basing on the said report, the disciplinary authority has dismissed the Petitioner from service, by

Order dated 30.08.1999. Aggrieved by the same, the Petitioner has preferred an appeal to the appellate authority, and the appellate authority has rejected the appeal on 11.05.2001 confirming the order of dismissal. Hence, the present writ petition.

4. Counsel for the Petitioner submits that the Petitioner had submitted a joining report on 19.10.1995, but he was not allowed to join duty, and for the next three years, the Petitioner was made to run from pillar to post seeking permission to join the duty and finally, the Respondent Corporation has admitted the Petitioner to duty on 08.07.1998, and by considering the entire period of absence as unauthorized, the Respondent had imposed a major punishment of dismissal, which is shockingly disproportionate, and hence, seeks to set aside the same.

5. Counsel for the Respondent submits that the disciplinary authority as well as the appellate authority has considered every aspect, and the principles of natural justice were extended to the Petitioner at every stage of the disciplinary proceedings, and the disciplinary authority has imposed the punishment of dismissal only after the charges have been held to be proved. So no illegality has been committed by the Respondent in dismissing the Petitioner from service.

6. Considered the rival submissions of both the parties. Since the punishment of dismissal was imposed for the proven misconduct of the Petitioner in the departmental enquiry, the question of interference of this Court would not arise. Moreover,

the Petitioner absented himself without any kind of leave, which amounts to misconduct as per the Regulations, and accordingly, the Petitioner was imposed punishment of dismissal from service. Hence, with regard to the said punishment of dismissal, this Court is not inclined to interfere with the impugned order.

7. The contention of the learned counsel for the Petitioner that the Petitioner has reported to duty on 19.10.1995 is not denied by the Respondent-Corporation, and, admittedly, the Respondent has given posting orders to the Petitioner on 08.07.1998. Therefore, the learned counsel submits that for the period from 1995 to 1998, the Petitioner is entitled for wages as per Rules on the ground that the said period should be treated as on-duty. If that is so, the Petitioner is at liberty to make a representation to the Respondent-Corporation, and the Respondent would pass appropriate orders on the said representation made by the Petitioner, within a period of eight weeks from the date of receipt of such representation.

8. In view of the above, the writ petition is devoid of merit and the same is accordingly dismissed. As a sequel, the miscellaneous applications pending, if any, shall stand closed. There shall be no order as to costs.

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Abhinand Kumar Shavili, J

December 22, 2017

Kv

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