

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.6277 OF 2005

ORDER:

1. This writ petition is filed seeking to issue a writ of Mandamus declaring the order dated 12.5.2004 passed by the 2nd respondent imposing punishment of compulsory retirement on the petitioner; the order dated 5.7.2004 passed by the appellate authority confirming the order of the 2nd respondent, and the order dated 24.12.2004/3.1.2005 passed by the Revisional Authority, as illegal and arbitrary, and consequently, to set aside the same and to direct the respondents to reinstate the petitioner into service with all consequential benefits.

2. Heard Smt. K. Udaya Sri, learned Counsel for the petitioner and Sri K. Lakshman, learned Assistant Solicitor General for the respondents.

3. It is the case of the petitioner that he was appointed as a constable in the Central Industrial Security Force on 30.7.1983, and on 24.10.2013 a charge memo was issued to him alleging that on 11.7.2003 while he was discharging his duties at out gate in B shift from 13.00 hours to 21.00 hours, he made a fabricated entry in the register showing that vehicle bearing No.AP 31 T 9989 loaded with slag passed through the gate at 19.03 hours on 11.7.2003, even

though the said vehicle had not passed through the said gate, which resulted in loading of Blast Furnace Coke fraudulently into the aforesaid vehicle. The petitioner submitted his explanation denying all the charges. Being not satisfied with the explanation submitted by the petitioner, the respondents have conducted an enquiry, and the enquiry officer submitted enquiry report holding that the charge was proved. When the enquiry officer's report was furnished to the petitioner, he submitted his objections on 27.1.2004. Thereafter, the disciplinary authority imposed punishment of compulsory retirement from service on the petitioner with immediate effect with pensionary benefits and gratuity, vide order dated 12.5.2004. Aggrieved by the same, the petitioner filed an appeal before the appellate authority. The appellate authority without considering any of the contentions raised by the petitioner mechanically dismissed the said appeal on 5.7.2004. Thereafter, the petitioner filed a revision petition and the said revision was also dismissed vide order dated 24.12.2004. Challenging the same, the present writ petition is filed.

4. It has been contended by the learned Counsel for the petitioner that the findings of the enquiry officer are perverse and contrary to the evidence on record and that there was no iota of evidence to prove the charge against the petitioner and that the charge itself is misconceived and that the petitioner is innocent and

he has not indulged in any misconduct as alleged by the respondents. The learned Counsel for the petitioner further contends that so many lorries would be passing through the gate, and it is the task of the constables to check every lorry or vehicle, but not of the head constable. He further contends that the punishment of compulsory retirement is very disproportionate to the charge proved against the petitioner, and therefore, the orders impugned herein are liable to be set aside, and the petitioner may be reinstated into service.

5. The learned Assistant Solicitor General appearing for the respondents contended that even though the charge proved against the petitioner is serious in nature, the disciplinary authority had taken a lenient view and imposed punishment of compulsory retirement only instead of dismissal, and further, it is not a case of the petitioner that the principles of natural justice were not extended in the enquiry conducted against him, and therefore, no interference is called for from this Court, and the writ petition is liable to be dismissed.

6. This Court has considered the rival submissions made by the parties and perused the material available on record. Except stating that the findings of the enquiry officer are perverse, the petitioner has not placed any material to demonstrate the same. Further, it is

not the case of the petitioner that principles of natural justice were not extended to him. In view of the nature of the proven misconduct of the petitioner and considering the orders passed by the disciplinary authority, appellate authority and revisional authority, this Court is of the view that the authorities concerned considered all the material on record and passed speaking orders rejecting the case of the petitioner and therefore, the orders impugned do not warrant any interference by this Court.

7. Insofar as the contention of the petitioner as to the proportionality of punishment is concerned, this Court is of the view that disciplinary authority has taken a lenient view and imposed punishment of compulsory retirement. The petitioner is allowed to draw pensionary benefits. Therefore, it cannot be said that the punishment imposed by the disciplinary authority is disproportionate to the charge proved against petitioner. There are no merits in this writ petition.

8. Accordingly, the Writ Petition is dismissed. No costs. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

JUSTICE ABHINAND KUMAR SHAVILI

Dated: 10th September, 2018.
Nn.

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI



WRIT PETITION No.6277 OF 2005

10/09/2018

Nn.