

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.31067 OF 2010

ORDER

This writ petition is filed seeking the following relief:

“..to issue any writ, order or direction particularly one in the nature of Mandamus declaring the proceedings No.Rc.No.Prl.Estt/31199/2004, dated 16.07.2009 of the 2nd respondent dismissing the petitioner and also the recovery of the amount as confirmed by the 3rd respondent as communicated under proceedings No.Rc.No.Z-VI/Prl.Estt/31199/2004, dated 1.11.2010 of the 1st respondent as arbitrary, illegal, violative of Articles 14 and 21 of the Constitution of India and by nullifying the same direct her reinstatement/payment of salary till the age of superannuation with all back wages, continuity of service and all other consequential and attendant benefits including terminal benefits and pass such other relief or reliefs as this Court may deem fit just and proper in the circumstances of the case.”

During the pendency of the writ petition, the petitioner had filed an application seeking to amend the prayer and the same was ordered on 20.1.2014. The amended prayer reads as under:

“..the proceedings under Memo No.Rc.NoVI/Prl.Estt/31199/2004, dated 1.3.2012 of the proposed 4th respondent” after the proceedings No.Rc.No.Z-VI/Prl.Estt/31199/2004, dated 1.11.2010 of the 1st respondent and pass such other

relief or reliefs as this Hon'ble Court may deem fit,
just and proper in the circumstances of the case.”

Heard Sri P.B.Vijay Kumar, learned counsel appearing for the petitioner and Sri Uma Shankar Lokanadham, learned Standing Counsel appearing for the respondents.

It is the case of the petitioner that the disciplinary authority, who is the Chairman, had imposed the punishment of dismissal on her *vide* proceedings dated 16.7.2009. Aggrieved by the same, she preferred an appeal before the appellate authority i.e., Board of Directors. The same disciplinary authority, presided over by the Board of Directors, reject the appeal on 1.11.2010. During pendency of the writ petition, she filed a review and the same was also rejected *vide* order dated 1.3.2012.

Learned counsel appearing for the petitioner contends that the disciplinary authority, who imposed the punishment against the petitioner, cannot act as an appellate authority and rejected the appeal preferred by him and hence, the impugned order of dismissal is liable to be set aside.

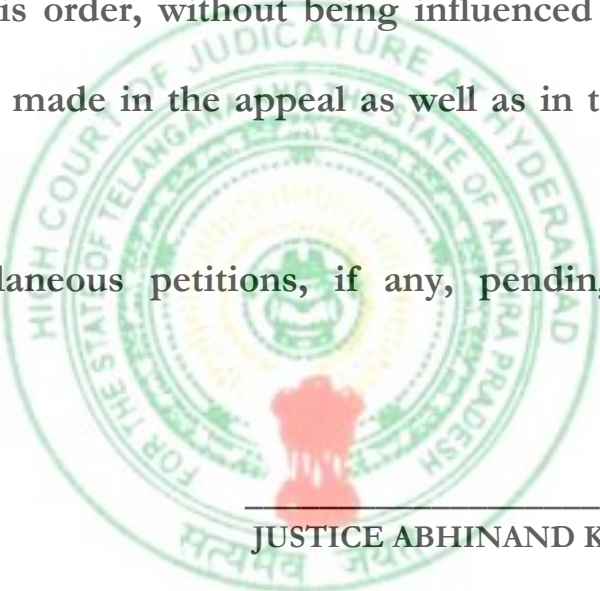
Learned counsel appearing for the respondents does not dispute the said fact.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the view that

the disciplinary authority, who passed the order of dismissal, cannot act as an appellate authority and reject the appeal preferred by the petitioner.

Accordingly, the Writ Petition is allowed. The matter is remanded to the appellate authority to re-consider the appeal preferred by the petitioner, on merits, by an officer, who is other than the disciplinary authority and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order, without being influenced by any of the observations made in the appeal as well as in the review. No costs.

Miscellaneous petitions, if any, pending shall stand closed.



JUSTICE ABHINAND KUMAR SHAVILI

29th October, 2018
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