

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.34159 OF 2011

ORDER

This writ petition is filed seeking the following relief:

“.... to issue an order, direction or writ more particularly one in the nature of Writ of Mandamus declaring the action of the 2nd respondent in issuing proceedings dated 31.10.2005 in so far as reducing the pay of the petitioner by one incremental stage with cumulative effect and treating the period of removal as not on duty is illegal, arbitrary and unjust and consequently set aside the proceedings of the 2nd respondent dated 30.10.2005 in so far as reducing pay of the petitioner by one incremental stage and grant increments to the petitioner and pass such further other order or orders as this Hon'ble Court deem fit and proper under the circumstances of the case.”

Heard Sri G.Ravi Mohan, learned counsel appearing for the petitioner, and Sri C.Sunil Kumar Reddy, learned Standing Counsel appearing for the respondent-Corporation.

It is the case of the petitioner that he was appointed as casual Driver in the respondent-Corporation on 23.04.1997 and he was discharging his duties as such. While he was on duty on 19.4.2005, and conducting the bus, it was alleged that he created nuisance. This incident was construed as a misconduct, the disciplinary authority, after conducting detailed enquiry, and for the proven misconduct, removed him from service *vide* order dated 2.9.2005. Challenging the same, the petitioner preferred an appeal before the 2nd respondent-

appellate authority. The appellate authority, while setting aside the termination order, imposed the punishment of reduction of pay by one incremental stage for a period of one year with cumulative effect and treated the period of removal till reinstatement 'as not on duty' *vide* order dated 31.10.2005. Challenging the same, the petitioner preferred review before the 1st respondent. The 1st respondent *vide* order dated 25.11.2006 rejected the same. Questioning the same, the present writ petition is filed.

Learned counsel appearing for the petitioner submits that without conducting any enquiry, the disciplinary authority had imposed the punishment and that the appellate authority, while setting aside the termination order, ought not to have imposed the punishment of reduction of pay by one incremental stage for a period of one year with cumulative effect.

Learned Standing Counsel appearing for the respondent-Corporation contends that the disciplinary authority had rightly imposed the punishment against the petitioner and the appellate authority had rightly set aside the termination order and imposed the punishment of reduction of pay by one incremental stage for a period of one year with

cumulative effect, and hence, no interference is called for by this Court.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that while setting aside the termination order, the appellate authority ought not to have imposed the punishment of reduction of pay by one incremental stage for a period of one year with cumulative effect. Therefore, this Court feels that ends of justice would be met if the punishment of reduction of pay by one incremental stage for a period of one year with cumulative effect is modified to that of without cumulative effect.

Accordingly, the Writ Petition is disposed of. The order dated 31.10.2005 passed by the 2nd respondent-appellate authority is modified to that of reduction of pay by one incremental stage for a period of one year without cumulative effect and without monetary benefits. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

5th November, 2018

rkk

