

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.21714 OF 2004

ORDER:

This writ petition is filed under Article 226 of the Constitution of India, seeking to issue writ of mandamus declaring the action of the 2nd respondent in issuing conditions 1 to 5 in his proceedings, dated 31.05.2002 and proceedings, dated 19.02.2002 issued by the 3rd respondent as illegal, arbitrary and consequently to set aside the same.

2. Heard Sri G.Ravi Mohan, learned counsel for petitioner and Sri P.Durga Prasad, learned standing counsel for the respondents.

3. It has been contended by the learned counsel for the petitioner that the petitioner was appointed as driver during 1987 and while he was discharging his duties during July, 2001, he had indulged in accident and the said conduct of the petitioner was construed as misconduct by the disciplinary authority and after initiating disciplinary proceedings and for the proven misconduct in the enquiry, the petitioner was imposed punishment of removal from service, vide proceedings, dated 19.02.2002. Thereafter, the petitioner preferred appeal and the appellate authority was pleased to consider the appeal and partly allowed the appeal, vide orders, dated 31.05.2002 modifying the punishment of removal to that of reduction of 2 incremental stages for a period of 2 years having effect on future increments from the existing pay. Challenging the same, the petitioner preferred revision and the same was rejected. Hence, this writ petition.

4. It has been contended by the learned counsel for the petitioner that the appellate authority has come to a conclusion that it was not the fault of the petitioner and also

the scooterist for the accident occurred and the appellate authority ought to have taken further lenient view for imposing punishment of reduction of 2 incremental stages for a period of 2 years.

5. Learned standing counsel for the respondents contended that the appellate authority has taken a lenient view and modified the punishment of removal and imposed punishment of reduction of 2 incremental stages with cumulative effect and no irregularity has been pointed by the petitioner and the writ petition is liable to be dismissed.

6. This Court having considered the rival contentions made by both parties, is of the considered view that the appellate authority already taken a lenient view by modifying the removal to that of reduction of 2 incremental stages for 2 years with cumulative effect. No further leniency can be shown in favour of the petitioner. Therefore, the writ petition is liable to be dismissed.

7. Accordingly, the writ petition is dismissed. No order as to costs. Miscellaneous petitions, if any pending in this writ petition shall stand closed.

ABHINAND KUMAR SHAVILI, J

DATED:12-10-2018

Hsd