

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 8220 of 2004

ORDER:

This writ petition is filed challenging the orders passed by the reviewing authority dated 02.05.2003 wherein the orders passed by the disciplinary authority dated 05.04.1998 were modified to that of deferment of annual increments for a period of six months without cumulative effect, however, with prospective effect i.e., 02.05.2003. The petitioner is challenging the reviewing authority's order dated 02.05.2003 wherein the reviewing authority instead of making without cumulative effect from the date of original order passed by the disciplinary authority has modified the punishment with prospective effect.

Learned counsel for the petitioner contends that initially, the disciplinary authority has passed order dated 05.04.1998 without conducting enquiry and imposed punishment of deferment of annual increment for a period of six months with cumulative effect. He relies on the decision rendered in ***Kulwant Singh Gill v. State of Punjab***¹ and contends that reviewing authority ought to have set aside the punishment imposed by the disciplinary authority as it is contrary to the law laid down by the Supreme Court in the judgment referred supra.

Learned Standing counsel appearing for the respondents contends that the reviewing authority has rightly modified the punishment of deferment of annual increment for a period of six (06) months with cumulative effect to punishment of deferment of annual increment for a period of six months without cumulative effect and with prospective effect and contends that there are no merits in the writ petition and is liable to be dismissed.

¹ 1991 Supp (1) SCC 504

This Court, having considered the rival submissions made by both the parties, is of the considered view that the originally disciplinary authority passed order dated 05.04.1998 without conducting enquiry and a punishment of deferment of annual increment for a period of six months with cumulative effect was imposed which was subsequently modified by the reviewing authority vide order dated 02.05.2003 making it as without cumulative effect and with prospective effect. The reviewing authority ought to have set aside the entire punishment imposed by the disciplinary authority as the said punishment was imposed without following the law laid down by the Hon'ble Supreme Court referred supra and also without conducting enquiry.

Therefore, the writ petition is allowed and the orders of the reviewing authority dated 02.05.2003 are set aside with all consequential benefits. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any, pending in the writ petition shall stand closed.

ABHINAND KUMAR SHAVILI, J

28th November, 2018
dv

