

HON' BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 12499 of 2002

ORDER:

This writ petition is filed seeking Certiorari calling for the records relating to the Proceedings No.3186/ Admn.IV/ DC-4/ 86, dated 11.05.2002 issued by respondent No.1 confirming the penalty of stoppage of one annual grade increment with cumulative effect against the order dated 30.04.1999 in Proceedings No.3186/ Admn.IV/ DC-4/ 86 passed by respondent No.2 and quash the same as illegal and arbitrary and consequently direct the respondents to restore the pay of the petitioner and to pay the arrears including salary for the period from 05.02.1987 to 06.11.1987 and all other consequential benefits.

2. The facts in brief are that the petitioner herein was initially appointed as Casual Labourer on 01.01.1994 under the control of respondent No.3 and after regularization of his services, he was posted as Typist on 04.06.1980. While so, respondent No.3 issued proceedings dated 05.02.1987 suspending the petitioner from service on the ground that he refused to take transfer orders and used unparliamentary language, which amounts to misconduct. Aggrieved by the same, the petitioner filed a writ petition in WP No.9836 of 1987 before this Court, and this Court by order dated 20.07.1987 passed in WPMP No.13106 of 1987 directed the respondents to pay subsistence allowance with effect from 05.08.1987. Thereafter, when the petitioner intended to joined duty, he was directed to report to the Manager, Khammam. Challenging the same, the petitioner again filed a writ petition in WP No.14436 of 1987 before this court and this Court granted interim stay of transfer and

thereafter made it absolute on 23.10.1987. In this sequence, respondent No.3 issued Charge Memo on 23.03.1987 to the petitioner and framed nine charges against him and after completion of enquiry, a report was submitted on 26.04.1995 holding that out of nine charges, seven charges were not proved and the other two charges of insubordination and habitual absenteeism were held proved. Respondent No.2 proposed to issue penalty of removal of the petitioner by proceedings dated 23.06.1995. The same was challenged by the petitioner before this Court in WP No.18373 of 1995 and finally the same was ended in dismissal by order dated 29.07.1997. Thereafter, respondent No.2 issued proceedings dated 30.4.1999 ordering stoppage of two annual grade increments with cumulative effect and to treat the period of suspension as leave eligible and to recover the subsistence allowance paid from the leave salary. Against the same, the petitioner preferred an appeal before respondent No.1, who in turn, issued the impugned proceedings dated 11.05.2002 modifying the punishment to the extent of stoppage of one annual grade increment with cumulative effect. Questioning the same, the present writ petition is filed.

3. Heard Sri S.Pahul, learned counsel representing Sri S.Lakshma Reddy, learned counsel for petitioner and Sri Palle Sriharinath, learned Standing Counsel for respondents-Corporation.

4. Learned counsel for the petitioner contended that the punishment imposed on the petitioner by the appellate authority is on higher side and disproportionate to the proved two charges out of nine charges and that considering the same, ought to have reduced the punishment of stoppage of one increment to that of minor penalty by following the

proportionality theory. Further, the appellate authority did not apply its mind while passing the impugned proceedings. Finally, it is pleaded that since the petitioner retired from service on attaining the age of superannuation, his case may be considered sympathetically.

5. Perused the material available on record.

6. Having heard both sides and considered the rival contentions on both sides, this court is of the view that since the petitioner retired from service and as is contended by the learned counsel for the petitioner, the impugned punishment is disproportionate to the proved two charges, ends of justice would be met, if the impugned order is modified to that of stoppage of one annual grade increment without cumulative effect for the period from 05.02.1987 to 06.11.1987 with all other consequential benefits. However, the respondents shall pay the arrears, if any, to the petitioner within a period of four (04) weeks from the date of receipt of copy of the order.

8. Accordingly, the writ petition is disposed of. No costs.

9. Miscellaneous Petitions, if any, pending in this writ Petition shall stand closed.

5th September, 2018
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ABHINAND KUMAR SHAVILI, J

41

HON' BLE SRI JUSTICE ABHINAND KUMAR SHAVILIWRIT PETITON No. 12499 of 200205.09.2018

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