

**HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI**

**WRIT PETITION No.20686 OF 2005**

**ORDER:**

1. This writ petition is filed seeking to issue a writ of Mandamus declaring the proceedings of the 2<sup>nd</sup> respondent dated 15.5.1998, as illegal and arbitrary; to set aside the same with all consequential benefits and further, to direct the respondents to reinstate the petitioner into service with all consequential benefits including back wages.

2. Heard Sri P. Govinda Rajulu, learned Counsel for the petitioner and Sri A. Rama Rao, learned Standing Counsel for the respondent-Corporation.

3. It is the case of the petitioner that he was appointed as driver in the year 1987 and while he was discharging his duties during October and November, 1996, he remained absent owing to domestic problems and ill-health. The disciplinary authority has construed the said absence as misconduct and initiated disciplinary proceedings against the petitioner. After conducting enquiry, the disciplinary authority issued show cause notice to the petitioner, for which he submitted his explanation, and thereafter, no further action was initiated. After nearly 1 ½ years, the disciplinary authority passed orders on 15.5.1998 removing the petitioner from service on the

ground that he remained absent after conducting enquiry, from 23.11.1997 to 17.12.1997 and from 8.3.1998 till the date of order impugned.

4. The learned Counsel for the petitioner contended that there was no charge of unauthorized absence for the period during 1997-98 and that the disciplinary authority straightaway imposed punishment of removal without conducting enquiry as to the misconduct alleged to have been committed during 1997-98. The learned Counsel for the petitioner while relying upon the judgment of the Hon'ble Division Bench of this Court in WA No.769/2005, dated 5.4.2005, contended that no enquiry was conducted for the unauthorized absence alleged to have been committed by the petitioner during 1997-98 and without framing charges to the subsequent absence, punishment cannot be imposed, and therefore, the order of removal is liable to be set aside only on that ground as it is violative of principles of natural justice.

5. The learned Standing Counsel for the respondent-Corporation contended that though the impugned order was passed on 15.5.1998, the petitioner approached the appellate authority after four years i.e., in the year 2002 and thereafter, the petitioner filed review unsuccessfully and that the petitioner filed this writ petition nearly after seven years from the date of

the impugned order and therefore, the writ petition is liable to be dismissed.

6. This Court having considered the submissions made by the parties, is of the view that no doubt, the law is in favour of the petitioner. But the petitioner approached this Court after seven years from the date of the impugned order. Therefore, ends of justice would be met if this writ petition is disposed of directing the respondent-Corporation to pay service benefits to the petitioner for the services rendered by him from the date of initial appointment till the date of removal, if not already paid, within a period of four weeks from the date of receipt of a copy of this order.

7. Accordingly, the Writ Petition is disposed of directing the respondent-Corporation to pay service benefits of the petitioner for the services rendered by him from the date of initial appointment till the date of removal, if not already paid, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

**JUSTICE ABHINAND KUMAR SHAVILI**

Dated: 8.11.2018.

Nn.

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**Nn.**