

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 23962 of 2004

ORDER:-

1. This writ petition is filed seeking to issue a writ of Mandamus declaring the action of the 1st respondent in issuing proceedings No.PA/21 (11)/03-RM: NLG, dated 23.4.2003 reducing the pay of the petitioner by three incremental stages with permanent effect for one year; treating the period of removal and absenteeism period as "not on duty", and further directing that security deposit is forfeited, as illegal and arbitrary, and consequently to set aside the same by granting continuity of service and increments to the petitioner.

2. Heard Sri G. Ravi Mohan, learned counsel for the petitioner and Sri V.T.M. Prasad, learned Standing Counsel for respondent-Corporation.

3. It is the case of the petitioner that he was appointed as driver in the respondent-Corporation in the year 1991. During June, 2001, due to illness, the petitioner sent leave applications. But the respondent – Corporation issued charge sheet dated 26.6.2001 to the petitioner on the allegation of unauthorized absence, for which, the petitioner submitted his explanation. Being not satisfied with the same, the disciplinary authority after conducting enquiry imposed punishment of

removal from service by proceedings dated 13.09.2001. Challenging the same, the petitioner filed appeal and the same was rejected. Thereafter, the petitioner filed review before the 1st respondent. The 1st respondent passed the impugned order reinstating the petitioner into service as driver. However, the 1st respondent imposed conditions Nos.2 to 4 therein reducing the petitioner's pay by two incremental stages and directing to treat the period of removal and absenteeism period as not on duty. Being aggrieved by the said conditions in the order impugned, the present writ petition is filed.

4. The learned Counsel for the petitioner contended that the disciplinary authority, without conducting any enquiry, had imposed the punishment and that the reviewing authority, while setting aside the termination order, ought not to have imposed punishment of reduction of pay by three incremental stages with permanent effect for one year and ought not to have directed to treat the period of removal and absenteeism period as "not on duty".

5. The learned Standing Counsel for the respondents contended that the disciplinary authority had rightly imposed the punishment of removal on the petitioner and the reviewing authority took a lenient view and set aside the termination order and imposed punishment of reduction of pay by three incremental stages with permanent effect for one year, while

treating the period of removal and absenteeism period as “not on duty” and that no illegality or irregularity has been committed by the reviewing authority in passing the order impugned.

6. 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 reviewing authority ought not to have imposed the punishment of reduction of pay of the petitioner by three incremental stages with permanent effect for one year. Therefore, this Court feels that ends of justice would be met if the punishment of reduction of pay by three incremental stages with permanent effect for one year is modified to that of without cumulative effect.

7. Accordingly, the Writ Petition is disposed of. The order dated 23.04.2003 passed by the 1st respondent – reviewing authority insofar as reduction of pay of the petitioner by three incremental stages with permanent effect for one year is modified to that of reduction of pay by three incremental stages without cumulative effect. No order as to costs. As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

ABHINAND KUMAR SHAVILI, J

Dated: 23-10-2018

Nn

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 23962 of 2004



Nn.