

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.23275 OF 2003

ORDER:

1. This writ petition is filed seeking to issue a writ of Mandamus declaring the proceedings dated 14.6.2001 and the consequential proceedings of the appellate authority dated 23.3.2002 as arbitrary and illegal, and consequently, to direct the respondents to refund the amounts recovered from the petitioner.

2. Heard Smt. K. Udaya Sri, learned counsel for the petitioner and Sri B. Krishna Mohan, learned Standing Counsel for the respondents.

3. It has been contended by the petitioner that he was initially appointed as Assistant Grade III and later on, he was earned promotions, and that it has been alleged that he received inferior quality of food grains while he was discharging duties as Assistant Grade I at Kakinada, and the said conduct of the petitioner was construed as misconduct. It has been further contended that the disciplinary authority after following the procedure imposed punishment of reduction of pay by three stages for a period of three years without cumulative effect and also imposed penalty of recovery of Rs.39,246.34 ps., from the pay of the petitioner in 40 instalments, vide order dated 14.6.2001, aggrieved by which, the petitioner preferred appeal

and that the appellate authority also rejected the appeal vide order dated 23.3.2002. Challenging the same, the present writ petition is filed.

4. The learned Counsel for the petitioner contended that the disciplinary authority imposed two punishments viz., one punishment is reduction of pay by three stages for a period of three years without cumulative effect and another punishment is recovery of amount, which is not permissible under the regulations. She further contended that on 5.11.2003, while admitting the writ petition, this Court was pleased to grant interim stay of recovery of the amounts, and that the punishment of reduction of pay by three stages for a period of three years without cumulative effect had been worked out itself and the petitioner retired from service on attaining the age of superannuation during the pendency of this writ petition.

5. The learned Standing Counsel for the respondents contended that the petitioner while discharging his duties as Assistant Grade I had caused loss and for his negligence, the disciplinary authority rightly initiated disciplinary proceedings, and after following the procedure the disciplinary authority imposed punishment and that there are no merits in this writ petition, and therefore, no interference is called for, and the writ petition is liable to be dismissed.

6. This Court having considered the rival submissions made by the parties is of the view that the disciplinary authority has imposed two penalties for the very same conduct and the said action of the disciplinary authority is not permissible and therefore, the punishment of recovery of Rs.39.246.34 ps., imposed by the disciplinary authority is set aside. The punishment of reduction of pay by three stages for a period of three years without cumulative effect shall remain.

7. With the above observation, the Writ Petition is disposed of. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.



JUSTICE ABHINAND KUMAR SHAVILI

Dated: 19th November, 2018.
Nn.

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19/11/2018

Nn.