

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 24348 of 2003

ORDER:

This writ petition is filed seeking to issue a writ of mandamus declaring the action of the respondents in imposing the punishment of deferment of annual increment for a period of 18 months with cumulative effect besides treating the suspension period as not on duty vide proceedings dated 15.03.2003 which was confirmed by the appellate authority vide proceedings dated 16.08.2003, as illegal and arbitrary.

When the matter is taken up for hearing, the learned counsel on either side have fairly conceded that the issue raised in the writ petition is squarely covered by the order passed by a Division Bench of this Court in Kottapati Jayachandra reddy Vs. Depot Manager, APSRTC, Kadiri Depot, Anantapur District¹ and therefore similar orders may be passed in the writ petition also. The operative portion of the said order reads as follows:

“3. The first respondent followed a peculiar procedure, in the disciplinary proceedings initiated, against the petitioner. An enquiry was conducted, and on the basis of the report submitted by the enquiry officer, the first respondent has, straight away, inflicted the punishment of stoppage of annual increment, for two years, with cumulative effect. However, he has chosen to issue a show cause notice, in relating to the period of suspension. On considering the explanation submitted by the petitioner, the first respondent treated the period of suspension, as not on duty. The appeal and review filed by the petitioner were rejected. Therefore, it clearly emerges that the punishment of stoppage of increment, with cumulative effect, was inflicted on the petitioner, without issuing any show cause notice, after the departmental enquiry was conducted. When the first respondent himself recognized the necessity to issue a show cause notice, as to how the period of suspension must be treated, as not on duty, he ought to have followed the same procedure, before inflicting the

¹ 2005 (6) ALD 247

punishment of stoppage of increment, that too, with cumulative effect.

4. Strictly speaking, the impugned order deserves to be set aside, and the matter needs to be remanded. However, having regard to the fact that nearly six years have elapsed, this Court does not find it proper, to subject the petitioner to another set of proceedings. Taking the totality of the circumstances, into account, the punishment of stoppage of increment shall be treated as the one without cumulative effect. However, the petitioner shall not be entitled for any monetary benefit, upto the date of this order, on account of the modification of the punishment.”

Following the aforesaid order, the punishment of deferment of annual increment for a period of 18 months with cumulative effect shall be treated as the one without cumulative effect. However, the petitioner shall not be entitled for any monetary benefit. The writ petition is accordingly disposed of.

Consequently, miscellaneous petitions, if any, pending in the writ petition shall stand closed. No order as to costs.

ABHINAND KUMAR SHAVILI, J

22nd October, 2018
cbs

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