

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.31460 of 2015

ORDER:

This writ petition is filed seeking to issue a writ of mandamus declaring the proceedings dated 28.07.2011 of the Executive Director of Kadapa Zone in imposing the punishment of deferment of petitioner's annual increment for a period of two years with cumulative effect and treating the period from the date of removal to the date of reporting as not on duty for the purpose of leave, wages, increments and gratuity and also the proceedings dated 24.02.2012 of the Vice Chairman & Managing Director in rejecting the petitioner's review application, as illegal and arbitrary. A consequential direction is also sought to the respondents to restore the two increments deferred with cumulative effect and refix the pay and pay the arrears duly treating the period from the date of removal to the date of reporting as on duty for all purposes including leave, wages, increments and gratuity.

Heard Ms. K. Udayasri, learned counsel for the petitioner and Sri A. Rama Rao, learned standing counsel for the respondent corporation.

It has been contended by the petitioner that he was appointed as Traffic Supervisor Trainee in June, 1999 in the respondent corporation and later on promoted as Senior Traffic Inspector and thereafter Assistant Manager (Traffic) in June, 2010. While so, he fell sick due to sudden change in climatic conditions and as there was nobody to attend him during sickness, he left to my native place for taking treatment and thereafter he submitted medical certificate issued by the Government General Hospital,

Kurnool for the period from 01.08.2010 to 16.08.2010 and also produced medical certificate for the period from 17.08.2010 to 12.09.2010 from Kings George Government Hospital, Visakhapatnam to the respondent corporation. The said act was construed as misconduct and the disciplinary authority after conducting regular departmental enquiry, removed him from service vide orders dated 14.02.2011 on the ground of unauthorized absence. Questioning the same, he had preferred an appeal before the 2nd respondent and the same was allowed vide order dated 28.07.2011. The appellate authority, while setting aside the order of removal, ordered his reinstatement into service and imposed further punishment of deferment of annual increment for two years with cumulative effect and the period from date of removal till the date of reporting shall be treated as not on duty for the purpose of leave, wages, increments and gratuity. Questioning the same, he filed a revision before the 1st respondent, but the reviewing authority without considering his case properly, rejected the review petition in a mechanical manner vide order dated 24.02.2012. Challenging the same, he filed the present writ petition.

It has been contended by the learned counsel for the petitioner that the modified punishment of removal to that of reduction of pay of the petitioner by two incremental stages for a period of two years with cumulative effect is too harsh. Learned counsel further contended that the appellate authority ought to have taken a lenient view and imposed the punishment of reduction of pay by two incremental stages for a period of two years without cumulative effect.

Learned standing counsel for the respondent corporation had contended that the charge framed against the petitioner is very serious in nature and the disciplinary authority had imposed the punishment of removal for the proven misconduct in the enquiry. Learned standing counsel further contended that the appellate authority had taken a lenient view and no further lenient view can be taken and the writ petition is liable to be dismissed.

This Court having considered the submissions made by both the parties is of the considered view that the appellate authority ought to have imposed the punishment of reduction of pay by two incremental stages for a period of two years without cumulative effect instead of with cumulative effect. Therefore, ends of justice would be met if the punishment imposed by the appellate authority is modified to that of reduction of pay by two incremental stages for a period of two years without cumulative effect instead of with cumulative effect.

Accordingly, the Writ Petition is disposed of modifying the punishment imposed by the appellate authority to that of reduction of pay by two incremental stages for a period of two years without cumulative effect. It is made clear that the above modified punishment is without any monetary benefits. No order as to costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVIL, J

26th November, 2018
cbs

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI



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(disposed of)

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