

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.8317 of 2004

ORDER:

This writ petition is filed seeking to issue a writ of mandamus, declaring the action of the respondents in issuing the proceedings, dated 31.03.2004, as arbitrary and illegal, and consequently set aside the final order, dated 31.03.2004 issued by the 1st respondent.

Heard Sri G.Ravi Mohan, learned counsel, appearing for the petitioner, and Sri N.Krishna Rao, learned standing counsel for the respondents.

It has been contended by the petitioner that he was initially appointed as a Field Supervisor on 20.12.1974. There afterwards, he was promoted as Processing Supervisor during February, 1975, further as Dairy Manager in 1978 and subsequently, he was upgraded as Manager Gr.I in July, 2001. While the petitioner was discharging his duties as Manager Gr.I, the respondents issued a charge sheet, dated 28.08.2001, alleging certain irregularities. The petitioner submitted his explanation. Being not satisfied with the said explanation, the respondents initiated disciplinary proceedings. After conducting a regular enquiry, the disciplinary authority imposed punishment of stoppage of one annual increment with cumulative effect, besides recovery of Rs.70,376-50 ps for the loss caused to the Federation. Challenging the same, the present writ petition is filed.

It has been contended by the learned counsel for the petitioner that the enquiry was conducted by the Enquiry Officer in a very perfunctory manner and the petitioner has submitted that he was not

there at the spot when the alleged misconduct has taken place. But the Enquiry Officer, after checking the attendance register, held that the charge is proved against the petitioner as he has signed in the attendance register. Basing on the enquiry report, the disciplinary authority imposed a major penalty, as noted hereinabove.

It has been further contended by the learned counsel for the petitioner that when the case came up for admission, vide orders dated 28.04.2004, this court was pleased to grant interim stay of recovery of Rs.70,376-50 ps and by virtue of the interlocutory orders, the respondents could not effect recoveries from the petitioner and during the pendency of the writ petition, the petitioner has also retired from service.

The learned standing counsel, appearing for the respondents, had contended that because of the negligence on the part of the petitioner, the milk got spoiled and the respondent Federation sustained huge loss. He had further contended that the disciplinary authority after conducting a detailed enquiry, and after proving of misconduct in the enquiry, it has imposed the punishment and no irregularity has been committed by the respondents in imposing the said punishment against the petitioner.

This court, having considered the rival submissions made by the parties, is of the considered view that the enquiry which was conducted against the petitioner is definitely a perfunctory enquiry and just because the petitioner has signed in the attendance register, it does not mean that the charge leveled against the petitioner is proved. In order to give a quietus to this litigation, this court feels that recovery of an amount of Rs.70,375-50 ps is a minor penalty and for which the respondents were not obligated to conduct any enquiry and accordingly, the respondents

were right in imposing the said punishment of recovery of Rs.70,376-50ps on the petitioner. However, in so far as the punishment of stoppage of one annual increment with cumulative effect is concerned, the respondents were obligated to conduct a full-fledged enquiry and the enquiry officer had given a very perfunctory finding in respect of the charge on the ground that the petitioner has signed in the attendance register. Therefore, the order of punishment of stoppage of one annual increment with cumulative effect is liable to be set aside and accordingly set aside.

The writ petition is allowed in part to the extent indicated above.
No order as to costs.

Pending miscellaneous applications, if any, shall stand closed in consequence.

Date: 12.09.2018
Dsr

ABHINAND KUMAR SHAVILI, J

