

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 5843 of 2002

O R D E R:

This Writ Petition is filed seeking to issue a writ of *Certiorari* calling for the records relating to Proceedings dated 18.12.2000, passed by respondent No.3- Regional Manager, APSRTC, modifying the order of appellate authority to that of reduction of pay by one incremental stage for a period of one year with cumulative effect, and quash the same as bad, illegal and the same is untenable and against the principles of natural justice. A consequential direction to the respondents to add one incremental stage for a period of one year in the pay scale along with arrears, is also sought.

2. Heard Sri Sadu Rajeswara Reddy, learned counsel for the petitioner, and Sri A.Ravi Babu, learned Standing Counsel for the respondent-Corporation.

3. It has been submitted by the petitioner that he was appointed as Driver in the respondent-Corporation on 01.10.1983. While discharging the duties as Driver, he was removed from service by proceedings, dated 24.02.1999, on the ground of

unauthorized absenteeism for the period from 16.11.1998 to 27.11.1998. The petitioner had preferred an appeal to the appellate authority challenging the order of removal, dated 24.09.1999. The appellate authority, after giving reasons, modified the order of punishment of removal to that of reinstatement and reduction of pay of the petitioner by two incremental stages for a period of two years, besides treating the period of absenteeism as not on duty. The petitioner thereafter preferred a review petition and the reviewing authority vide order, dated 18.12.2000, took a lenient view and reduced the pay by one incremental stage for a period of one year with cumulative effect. Accordingly, the orders passed by the Disciplinary Authority and appellate authority were modified to that of reduction of pay by one incremental stage for a period of one year with cumulative effect. Challenging the same, the present writ petition is filed.

4. It has been contended by counsel for the petitioner that without conducting any enquiry, the respondents have imposed a major penalty initially, which was modified by the appellate authority and further modified by the reviewing authority. He

further contended that ends of justice would be met, if the reduction of pay by one incremental stage for a period of one year with cumulative effect is modified to that of without cumulative effect. He also contended that for a mere absenteeism, imposing a major penalty with cumulative effect is too harsh and disproportionate.

5. Learned Standing Counsel appearing for the respondent-Corporation has contended that a regular enquiry was conducted and thereafter only on proving the misconduct, the petitioner was removed from service initially by the Disciplinary Authority and the appellate authority having taken a lenient view modified the punishment of removal to that of reduction of pay for two stages for a period of two years with cumulative effect and the same was further modified by the reviewing authority again taking a lenient view by reducing the pay by one incremental stage for a period of one year with cumulative effect. Therefore, no further interference is called for from this Court.

6. This Court, having considered the submissions made by the learned counsel on either side, is of the view that ends of justice would be met, if the punishment, as modified by the reviewing

authority, is further modified to that of reduction of one incremental stage for a period of one year without cumulative effect, by taking into consideration the totality of the case as recorded by the appellate authority, and imposing of penalty with cumulative effect would be too harsh and disproportionate to the charge levelled against the petitioner.

7. With the above modification, the Writ Petition is disposed of.

8. Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

26.09.2018
Mj//*



ABHINAND KUMAR SHAVILI, J