

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.34345 OF 2014

ORDER

This writ petition is filed seeking the following relief:

“...to issue any appropriate writ, order, direction more particularly one in the nature of writ of Mandamus declaring the action of the 3rd respondent in issuing the Memo No.SE/OP/KNR/DE(T)/JAO/J2/D.No.483/12, dt.18.05.2012, imposing the major penalty the action of the 2nd respondent in rejecting the Appeal Petition dated 27.06.2012, vide Memo No.CGM (HRD)/JS/AS(DC)/F.No.162-E/12-2, dt. 9.1.2013, without giving any reasons, and the action of the 1st respondent in not considering the petitioner's Mercy Petition dated 24.04.2013 so far and in not exonerating the petitioner for the alleged misconduct or in not imposing any minor penalty on par with other delinquent officers, who were issued the Memo No.SE/OP/KNR/DE(T)/JAO/J2/D.No. 484/12, dated 18.05.2012 and Memo No.SE/OP/KNR/DE(T)/JAO/J2/D.No.485/12, dated 18.5.2012, as arbitrary, illegal and violative of Articles 14, 16 and 21 of the Constitution of India and contrary to the APSEB Employees (D&A) Regulations and consequently set aside the said Memos.No.SE/OP/KNR/DE(T)/JAO/J2/D.No.483/12, dated 18.05.2012 issued by the 3rd respondent and the Memo No.CGM(HRD)/JS/AS(DC)/F.No.162-E/12-2, dated 9.1.2013 issued by the 2nd respondent and direct the respondents to modify the punishment as any minor penalty on par with the other delinquent officers, with all consequential benefits and pass such other orders as may be just.”

Heard Sri Chandraiah Sunkara, learned counsel appearing for the petitioner and Sri Zakir Ali Danish, learned Standing Counsel appearing for the respondent-TSNPDCL.

It is the case of the petitioner that while he was working as Assistant Lineman, the respondents have issued a charge

memo alleging that he had diverted 20 liters of transformer oil in a can unauthorizedly and thereby, caused loss to the respondents.

Learned counsel appearing for the petitioner submits that after conducting a detailed enquiry, the Enquiry Officer has submitted a report holding that the petitioner and two others i.e., P.Ram Mohan Rao and B.Madanlal are guilty of the charges levelled against them; that based on the said report, the disciplinary authority has imposed the major punishment of withholding of two annual grade increments with cumulative effect by treating the suspension period as 'dies-non' against the petitioner and minor punishment of 'censure' against P.Ram Mohan Rao and withholding of one annual grade increment without cumulative effect against B.Madanlal; that in all fairness, the respondents ought to have imposed minor penalty against the petitioner; and that the appellate authority without assigning any reasons, passed a cryptic order dated 9.1.2013.

Learned Standing Counsel appearing for the respondents contends that the Enquiry Officer has held that the role of the petitioner is major in diversion of transformer oil and the allegations against the other two persons are minor and accordingly, the disciplinary authority has imposed the

major punishment in respect of the petitioner and minor punishment in respect of P.Ram Mohan Rao and B.Madanlal and the disciplinary authority has rightly imposed the punishment for the proven misconduct in the enquiry and therefore, no interference is called for from this Court.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that the appellate authority has rejected the appeal preferred by the petitioner without assigning any reasons and passed cryptic order dated 9.1.2013. Whenever an administrative authority adjudicated the case, without assigning any reasons, it cannot reject the case of the petitioner. Therefore, the order passed by the appellate authority is liable to be set aside.

Accordingly, the Writ Petition is allowed and the order dated 9.1.2013 passed by the appellate authority is set aside. The appellate authority is directed to reconsider the case of the petitioner afresh by duly taking into consideration the punishment imposed against P.Ram Mohan Rao and B.Madanlal and pass appropriate orders within a period of two months from the date of receipt of a copy of this order. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

26th December, 2018
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