

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.2981 OF 2002

ORDER:

1. This writ petition is filed seeking to issue a writ of Mandamus declaring the proceedings dated 12.12.2001 issued by the 2nd respondent-Deputy Chairman, Visakhapatnam Port Trust/Appellate Authority, Visakhapatnam, Visakhapatnam District, confirming the order dated 24.9.2001 passed by the 3rd respondent-Traffic Manager, Visakhapatnam Port Trust, Visakhapatnam, Visakhapatnam District, as illegal and arbitrary, and consequently, to direct the respondents herein to award all the consequential benefits to the petitioner herein.

2. Heard Sri P. Durga Prasad, learned Counsel for the petitioner and Sri K. Srinivasa Murthy, learned Counsel for the respondents.

3. The case of the petitioner is as follows:

He was initially appointed in the respondent-organization in the year 1980 and while he was working as such, the 3rd respondent issued a charge sheet dated 25.3.1999 on the allegation that he tampered the muster book. The petitioner submitted explanation denying the said charges. Being not satisfied with the same, the respondents initiated regular departmental enquiry by appointing an enquiry officer. After conducting a detailed enquiry, the 3rd

respondent imposed punishment of reversion to the next lower post of Clerk (Trains) for a period two years with cumulative effect vide proceedings dated 24.9.2001. Challenging the same, the petitioner preferred appeal before the 2nd respondent-appellate authority. The 2nd respondent-appellate authority rejected the appeal and confirmed the order of the 3rd respondent, vide order dated 12.12.2001. Aggrieved by the same, the present writ petition has been filed.

4. The learned Counsel for the petitioner contends that the disciplinary authority had not considered the explanation and objections submitted by the petitioner and had mechanically passed the order of punishment, and that either the disciplinary authority or the appellate authority had not assigned any reasons as to how they had come to a conclusion that the charges leveled against the petitioner have been proved.

5. The learned Counsel for the respondents contends that the respondents imposed punishment of reversion to the next lower post of Clerk (Trains) for a period two years with cumulative effect for the proven misconduct in the departmental enquiry and that the disciplinary authority and the appellate authority had rightly imposed the punishment of reversion on the petitioner.

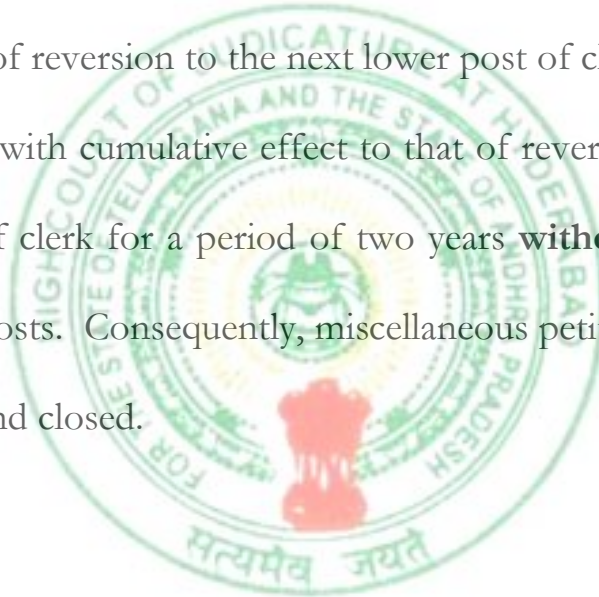
6. This Court has considered the rival submissions made by the parties and perused the material available on record. From the orders impugned, it is obvious that the disciplinary authority except stating that it had agreed with the findings of the enquiry officer, had not recorded any other finding in its order dated 24.9.2001 as to how the charges had been proved and which factors were taken into account for imposing such punishment. Further, the disciplinary authority without discussing the defence of the petitioner, in a cryptic manner had imposed punishment of reversion to the next lower post of Clerk (Trains) for a period two years with cumulative effect. Apart from that, even the appellate authority had also passed very cryptic order confirming the orders of the disciplinary authority. The authorities ought to have passed speaking orders. Both the authorities had not discussed even about the proportionality of the punishment.

7. The present writ petition is filed in the year 2002. About 16 years have elapsed. At this length of time, the matter cannot be remanded to pass speaking orders. Apart from that, it has been brought to the notice of this Court by the Counsel appearing for the parties that the petitioner has already retired from service.

8. Having regard to the circumstances of the case and the nature of misconduct alleged to have been proved against the petitioner,

this Court is of the view that reversion to the next lower post of clerk for a period of two years with cumulative effect is too harsh and disproportionate to the charges alleged to have been proved against the petitioner, and that ends of justice would be met if the punishment of reversion to the next lower post of clerk for a period of two years with cumulative effect is modified to that of without cumulative effect.

9. Accordingly, the Writ Petition is disposed of modifying the punishment of reversion to the next lower post of clerk for a period of two years with cumulative effect to that of reversion to the next lower post of clerk for a period of two years **without cumulative effect**. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.



JUSTICE ABHINAND KUMAR SHAVILI

Dated: 10th August, 2018.
Nn.

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI



10/08/2018

Nn.