

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.948 OF 2019

ORDER

This writ petition is filed seeking the following relief:

“to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the impugned Proc.Rc.No.1458/B2/2008, dated 5.6.2012 issued by the 2nd respondent in so far as treating the suspension period as eligible leave is concerned while imposing Censure on the petitioner and the connected Proc.Rc.No.1458/B2/208, dated 31.7.2012 issued by the 2nd respondent in treating the suspension period from 16.12.2008 to 2.7.2009 (199) days as E.O.L as being illegal, arbitrary, unjust, void and subversive of Articles 14, 16 and 21 of the Constitution of India and consequently set aside the same and direct the respondents to treat the period of suspension of the petitioner from 16.12.2008 to 2.7.2009 as on duty for all purposes including increments, seniority, promotion etc., with all consequential and attendant benefits and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

Heard Sri D.Balakishan Rao, learned counsel appearing for the petitioner and learned Government Pleader for Services-I appearing for the respondents.

It is the case of the petitioner that initially, he was appointed as Secondary Grade Teacher on 15.6.1995 and later, he was promoted to the post of School Assistant on 1.11.2002 and he was discharging his duties as such. While so, the 2nd respondent *vide* proceedings dated 4.12.2008 placed him under suspension on the ground of absenteeism.

Subsequently, the suspension order was revoked *vide* order dated 29.6.2009. Thereafter, the disciplinary authority imposed the punishment of censure *vide* proceedings dated 5.6.2012 besides treating the suspension period as eligible leave. Later, the 2nd respondent *vide* proceedings dated 31-07-2012 modified the earlier punishment and treated the suspension period as extraordinary leave, without giving any opportunity to the petitioner.

Learned counsel appearing for the petitioners submits that the disciplinary authority *suo motu* cannot modify the earlier punishment imposed against the petitioner; that the petitioner submitted a representation to the Regional Joint Director on 29-08-2012; that the Regional Joint Director forwarded the same to the 3rd respondent-Director of School Education on 23-10-2013, but so far, no orders have been passed thereon; and that appropriate orders be passed directing the 3rd respondent to pass orders on the said representation.

Learned Government Pleader appearing for the respondents contends that the representation of the petitioner, which is pending before the 3rd respondent, would be considered and appropriate orders would be passed.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the view that ends of justice would be met if a direction is given to the 3rd respondent to consider the representation of the petitioner.

Accordingly, the Writ Petition is disposed of directing the 3rd respondent to consider the representation of the petitioner dated 29-08-2012 and pass appropriate orders thereon, in accordance with law, within a period of six weeks 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

4th February, 2019
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