

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.1401 OF 2019

ORDER

This writ petition is filed seeking for the following relief:

“.... to issue a writ or order, more in the nature of Writ of Mandamus declaring the Final Order No. P271(131)/2011-HZB, dated 21-05-2014 passed by 3rd respondent in imposing major punishment of deferment of two years annual increments which shall have effect on future increments without conducting the departmental enquiry and without following APSRTC (CC&A) Regulations and Circular dated 19-2-1999 and the same was confirmed by 2nd respondent by proceedings dated 22-4-2015 as illegal, arbitrary and violation of principles of natural justice and set aside the same with all consequential benefits including restoration of increments with all attendant benefits and payment of arrears and pass such other order or orders in the circumstances of the case as otherwise the petitioner may suffer irreparable loss and hardship.”

Heard Sri P.Govinda Rajulu, learned counsel appearing for the petitioner, and Sri A.Ravi Babu, learned Standing Counsel appearing for the respondent-Corporation.

It is the case of the petitioner that he was appointed as Driver in the respondent-Corporation and he was discharging his duties as such. While so, since he has absented to his duties from 6-11-2011 to 8-11-2011, charge sheet was issued to him on 30-11-2011, for which, he submitted his explanation on 7.12.2011. Without conducting any enquiry and without following the principles of natural justice, show cause notice

dated 19.3.2012 was issued to him. Pursuant to the same, the petitioner submitted his explanation. Without considering the same, the 3rd respondent passed final order on 21.5.2014 imposing major punishment of deferment of annual increment for a period of two years with cumulative effect. Aggrieved thereby, the petitioner preferred an appeal before the appellate authority-2nd respondent. The 2nd respondent-appellate authority *vide* proceedings dated 22.4.2015 confirmed the order passed by the 3rd respondent. Challenging the same, the present writ petition is filed.

Learned counsel appearing for the petitioner submits that the 3rd respondent ought not to have imposed the major punishment of deferment of annual increment for a period of two years with cumulative effect without conducting any enquiry, which is contrary to the judgment of the Apex Court in *Kulwanth Singh Gill v. State of Punjab*¹.

Learned Standing Counsel appearing for the respondent-Corporation contends that the 3rd respondent as well as the 2nd respondent have rightly passed the orders and hence, no interference is called for by this Court; and that there is a delay of four years in approaching this Court and on this ground alone, the writ petition is liable to be dismissed.

¹ 1991 Suppl (1) SCC 504

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that the objection raised by the learned Standing Counsel that there is delay of four years in approaching this Court is not fatal to the writ petition as there is no time prescribed for filing the writ petitions. Further, the respondents have not followed the Circular instructions dated 19.2.1999. The action of the respondents in imposing the punishment of deferment of annual increment for a period of two years with cumulative effect without conducting enquiry is arbitrary and illegal in view of the judgment of the Apex Court in *Kulwanth Singh Gill v. State of Punjab* (referred to supra) and the orders passed by the 3rd respondent as well as the 2nd respondent are liable to be set aside.

Accordingly, the Writ Petition is allowed and the impugned orders passed by the 3rd and the 2nd respondents are set aside. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

28th January, 2019
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