

HON' BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.7035 of 2019

ORDER:

- 1) This Writ Petition is being disposed of at the admission stage with the consent of both the parties.
- 2) This Writ Petition is filed seeking a writ of *Mandamus* declaring the action of the second respondent in imposing punishment of reduction of the petitioner's pay by two incremental stages with permanent effect is arbitrary, illegal and against the principles of natural justice by setting aside the Final Order No.P1/ 2(10)/ 2018-MLG, dated 28.09.2018 passed by the second respondent; and sought a consequential direction to the respondents not to effect the said punishment.
- 3) Heard Sri P.Venkateshwar Rao, learned Counsel for the Petitioner and Sri A.Ravi Babu, learned Standing Counsel for the respondents.
- 4) It has been contended by the petitioner that the petitioner was appointed as a driver with the respondents in 1991 and he discharged his duties to the utmost satisfaction of his superiors. The petitioner submits that while he was performing his duties on 23.08.2018 a minor accident has taken place and the respondents have construed the said conduct of the petitioner as misconduct and initiated disciplinary proceedings and the Disciplinary Authority has imposed a major penalty of reduction of the petitioner's pay by two incremental stages with permanent effect

without conducting a detailed enquiry vide orders dated 28.09.2018.

5) Learned counsel for the petitioner submits that as per the judgment rendered by the Supreme Court in *Kulwanth Singh Gill v. State of Punjab*<sup>1</sup>, the employer cannot impose a major penalty of stoppage or deferment of increment with cumulative effect without conducting enquiry. He further contended that the punishment imposed is also contrary to the judgment rendered by this Court in W.P.No.9856 of 2007 dated 01.05.2017 and contended that the impugned punishment orders of reduction of petitioner's pay by two incremental stages with permanent effect is arbitrary, illegal and contrary to the law laid down by the Hon'ble Supreme Court.

6) Learned Standing Counsel appearing for the respondents has not disputed about the proposition of law as set out in *Kulwanth Singh Gill case (supra)*, however, submits that liberty may be given to the respondents to proceed against the petitioner in accordance with the judgment of the Supreme Court.

7) Having regard to the rival submissions, this Court is of the considered view that the impugned punishment orders have been issued without conducting any enquiry which is contrary to the judgment rendered by the Hon'ble Supreme Court. Only on the ground that the respondents have not conducted any enquiry while imposing punishment, the impugned punishment order is liable to set aside.

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<sup>1</sup> 1991 Supp(1) SCC 504

8) Accordingly, the Writ Petition is allowed and the impugned order is set aside. However, the respondents are at liberty to initiate action against the petitioner in accordance with law.

9) As a sequel thereto, miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

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ABHINAND KUMAR SHAVILI, J

03.04.2019  
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