

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.9497 OF 2019

ORDER

This writ petition is filed seeking the following relief:

“to issue a writ, order or direction more particularly a Writ of Certiorari calling for all the connected records including the impugned in Procg.No.G3/547/2017-2, dated 27.11.2018 awarding punishment of ‘Censure’ under Rule 14 of TSCS (CC&A) Rules, 1991 which was confirmed by the 1st respondent in Memo No.10478/173/DTA/VC/2018, dated 28.03.2019 and quash the same as illegal, improper, unjust, arbitrary, discriminatory and violative of Articles 14 & 16 of the Constitution of India and further declare that the petitioner is entitled for promotion to the post of AAO on par with juniors w.e.f 30.11.2018 with all consequential benefits including seniority, monetary etc., and to pass such other order or orders in the interest of justice.”

Heard Smt P.Sarada, learned counsel appearing for the petitioner and learned Government Pleader for Services-II appearing for the respondents.

It is the case of the petitioner that he is working as Junior Accounts Officer. While so, the disciplinary authority had issued a charge memo on 28.08.2017 alleging that he has demanded bribe and delayed in examining the pension papers of one G.Lakshmi. Pursuant to the same, the petitioner submitted his explanation denying the charges. Thereafter,

the disciplinary authority has appointed an enquiry officer. The enquiry officer submitted his report stating that the charges levelled against the petitioner were not proved. In spite of the same, the disciplinary authority had imposed the punishment of 'censure' vide proceedings dated 27.11.2018. Aggrieved thereby, the petitioner preferred an appeal before the appellate authority. The appellate authority vide order dated 28.3.2019 rejected the same. Therefore, the respondents are not considering the case of the petitioner for promotion to the next higher post of Assistant Pension Payment Officer. Hence, the Writ Petition.

Learned counsel appearing for the petitioner submits that since the charges levelled against the petitioner were not proved, the disciplinary authority ought not to have imposed the punishment of 'censure' and that the impugned order passed by the disciplinary authority is liable to be set aside and that the case of the petitioner can be considered for promotion to the post of Assistant Pension Payment Officer.

Learned Government Pleader appearing for the respondents submits that the disciplinary authority rightly imposed the punishment of 'censure', which was confirmed by the appellate authority, as the petitioner has delayed in examining the pension papers of one G.Lakshmi and

demanded bribe from her and that the writ petition is liable to be dismissed.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the view that when once the enquiry officer held that the charges levelled against the petitioner were not proved, the disciplinary authority ought not to have imposed the punishment of 'censure'. In the instant case, the disciplinary authority has disagreed with the findings of the enquiry officer, which were in favour of the petitioner. Therefore, the punishment of 'censure' imposed by the disciplinary authority, and confirmed by the appellate authority, are liable to be set aside.

Accordingly, the Writ Petition is allowed. The impugned order dated 27.11.2018 passed by the disciplinary authority as confirmed by the appellate authority *vide* Memo dated 28.3.2019 are set aside. The respondents are directed to consider the case of the petitioner for the post of Assistant Pension Payment Officer with all consequential benefits. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

2nd July, 2019
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