HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.26542 of 2017

ORDER:

This writ petition is filed seeking a Writ of Mandamus declaring the action of respondents in not counting the two annual grade increments which were withheld earlier for the same issue vide proceedings dated 20.11.1997 issued by the 2nd respondent and also in not regularizing the suspension period inspite of setting aside the very disciplinary proceedings initiated against the petitioner by issuing Charge Memo dated 22.07.2000 in respect of Government S.W. Boys hostel (A), Warangal which was set aside by the Tribunal vide orders dated 22.04.2016 in O.A.No.5114 of 2014 and also the orders passed by the 1st respondent in G.O.Rt.No.843, dated 06.12.2016 fixing the pension and pensionary benefits of the petitioner, as illegal, arbitrary, unjust, improper, non-application of mind and misunderstanding the orders of the Tribunal and violative of Articles 14, 16 and 21 of the Constitution of India and sought consequential directions directing the respondents to count and add the two annual grade increments to the pension and pensionary benefits of the petitioner which were withheld earlier for the same issue vide proceedings dated 20.11.1997 issued by the 2nd respondent, and regularize the suspension period for all purposes, by way of re-fixing the pension of the petitioner and pay the arrears, including refund of the recovered amount in view of setting aside of entire disciplinary proceedings initiated against the petitioner by the Tribunal vide orders dated 22.04.2016 in O.A.No.5114 of 2014.

Heard both sides.

It has been contended by the petitioner that while he was working as Hostel Welfare Officer Grade-I, it has been alleged by the disciplinary authority that he had indulged in certain financial irregularities during the years 1991-92, 1992-93 and 1993-94. Therefore, disciplinary proceedings were initiated against the petitioner and after conducting detailed inquiry, the punishment of stoppage of two annual grade increments with cumulative effect was imposed on the petitioner. Petitioner further submits that while the currency of punishment was going on, the 2nd respondent had reopened the disciplinary proceedings initiated against the petitioner at the instance of State Government and a fresh charge memo was issued to the petitioner vide proceedings dated 22.07.2000. Petitioner has challenged the said fresh charge memo dated 22.07.2000 before the then Andhra Pradesh Administrative Tribunal by filing O.A.No.5114 of 2014 and the Tribunal, vide orders dated 22.04.2016, was pleased to set aside the charge memo dated 22.07.2000 and allowed the O.A. with all consequential benefits to be paid to the petitioner. Counsel for petitioner contends that during the pendency of fresh charge memo, the petitioner has retired from service on attaining the age of superannuation on 31.01.2013. It is contended that the State Government has also issued G.O.Rt.No.843, dated 06.12.2016, wherein, a decision was taken to implement the orders passed by the Tribunal in O.A.No.5114 of 2014, dated 22.04.2016, and accordingly, the benefits of the petitioner were released. However, counsel for petitioner contends that the respondents have not released the two increments which were withheld pursuant to the 1st disciplinary proceedings initiated way-back

in 1997. Therefore, counsel for petitioner contends that when the respondents, on their own, have reopened the disciplinary proceedings against the petitioner, the earlier punishment of withholding of two annual grade increments with cumulative effect ought to have been restored and all the increments which were withheld, ought to have been released in favour of the petitioner with all consequential benefits. Therefore, he contends that appropriate orders be passed in the writ petition directing the respondents to release the two annual grade increments which were withheld as a measure of punishment, with all consequential benefits.

The Government Pleader appearing for respondents has contended that the State Government has directed the 2nd respondent to reopen the disciplinary proceedings and issue a fresh charge memo to the petitioner and accordingly, the 2nd respondent had issued the charge memo vide orders dated 22.07.2000. Petitioner has challenged the said fresh charge memo before the then A.P.Administrative Tribunal by filing O.A.No.5114 of 2014 and the Tribunal has allowed the said O.A. setting aside the fresh charge memo. He contended that while setting aside the fresh charge memo, there is no finding or adjudication by the Tribunal that the two annual grade increments, which were withheld with cumulative effect pursuant to the proceedings dated 20.11.1997, be released. It is contended that the petitioner has never allowed the proceedings to conclude pursuant to the fresh charge memo and the Tribunal has merely set aside the fresh charge memo, therefore, the earlier punishment orders imposed by the 3rd respondent holds good and

there are no merits in the writ petition and the same is liable to be dismissed.

This Court, having considered the rival submissions made by the parties, is of the considered view that the earlier disciplinary proceedings which ended in imposition of punishment of withholding of two annual grade increments with cumulative effect, were never subject matter of adjudication before the Tribunal and the State Government never revoked the earlier punishment imposed on the petitioner. The action of the 1st respondent in directing the 2nd respondent to reopen the disciplinary proceedings against the petitioner was faulted by the Tribunal and the Tribunal has rightly set aside the said reopening proceedings. That does not mean that the earlier disciplinary proceedings initiated against the petitioner which ended in imposition of penalty of stoppage of two annual grade increments with cumulative effect, imposed on 20.11.1997, are liable to be set aside. Therefore, this Court is not inclined to interfere with the matter.

The writ petition is accordingly dismissed. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

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ABHINAND KUMAR SHAVILI, J

25th November 2019

ajr