

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.15949 of 2019

ORDER

This writ petition is filed seeking the following relief:

“to issue a Writ, Order or Direction more in the nature of Writ of Mandamus declaring the inaction of the respondents in not passing orders on the representation made by the petitioner dt 04.10.2018 as discriminatory and illegal and consequently direct the respondents to pass orders on the representation of the petitioner herein dt 04.10.2018 for modification of the punishment from that of RTSP with effect to that of RTSP without effect as was done with regard to others and pass such other or orders as this Hon'ble Court may deems fit and proper under the circumstances of the case.”

Heard Sri K.Anantha Rao, learned counsel appearing for the petitioner and learned Government Pleader for Home appearing for the respondents.

It is the case of the petitioner that he was appointed as Junior Assistant and thereafter, posted as a Camp Clerk in the office of the Deputy Superintendent of Police, Mulugu Division in the year 1992. While so, he was placed under suspension *vide* order dated 16.06.1995 on the ground of suppression of important correspondence. Thereafter, he was reinstated into service and a charge memo was issued to him, for which, he has submitted his reply denying the charge.

Thereafter, after conducting enquiry and for the proven misconduct, the disciplinary authority has imposed the punishment of removal *vide* order dated 17.3.1999. Aggrieved by the same, the petitioner preferred an appeal before the appellate authority. The appellate authority *vide* order dated 08.07.1999 confirmed the punishment imposed by the disciplinary authority. Challenging the same, the petitioner preferred a revision before the 2nd respondent, who had modified the punishment of removal from service to that of reduction of time scale by five stages with cumulative effect on future increments *vide* order dated 5.1.2000. Aggrieved thereby, the petitioner preferred O.A.No.2470 of 2004 before the A.P. Administrative Tribunal. The Tribunal partly allowed the said OA *vide* order dated 06.04.2011 by modifying the punishment of reduction of time scale by five stages to that of one stage *vide* order dated 6.4.2011. Questioning the same, the respondents have preferred W.P.No.29881 of 2011 before this Court and the same is pending. Even though no interim direction was granted, the respondents have not implemented the order of the Tribunal. Hence, the petitioner filed W.P.No.42811 of 2017 before this Court. The Division Bench *vide* order dated 22.01.2018 directed the respondents to

implement the order of Tribunal since no stay was granted in W.P.No.29881 of 2011 filed by the respondents.

Learned counsel appearing for the petitioner submits that the petitioner has submitted a detailed representation dated 04.10.2018 to the respondents seeking modification of the punishment of reduction of time scale of pay with cumulative effect on future increments to that of without cumulative effect, but so far, no orders have been passed thereon. Learned counsel further submits that in similar circumstances, the respondents have modified the punishment of reduction of time scale with cumulative effect on future increments to that of without cumulative effect on future increments and the said benefit can be extended to the petitioner.

Learned Government Pleader appearing for the respondents contends that aggrieved by the order passed by the Tribunal, the respondents have preferred W.P.No.29881 of 2011, which is pending adjudication before the Division Bench and when the matter is pending before the Division Bench, the petitioner was not justified in filing the present writ petition seeking the very same relief of modification of the order passed by the revisional authority and that there are no

merits in the writ petition and the same is liable to be dismissed.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that the order of the revisional authority is the subject matter of the Tribunal and the Tribunal allowed the OA by modifying the punishment of reduction of time scale of pay by five stages with cumulative effect on future increments to that of one year. Challenging the same, the respondents have filed W.P.No.29881 of 2011 and the same is pending before the Division Bench. Since the issue was subject matter of the Division Bench, the petitioner ought not to have filed the present writ petition seeking the very same relief. There are no merits in the writ petition and the same is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

30th June, 2019
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