HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.15615 of 2018

ORDER:

When the matter is taken up for hearing, the learned counsel appearing for the petitioner submits that the issue raised in this writ petition is squarely covered by the judgment of this Court in *A.V.VINOD KUMAR Vs. EXECUTIVE COMMITTEE OF THE CENTRAL WAREHOUSING CORPORATION, NEW DELHI AND ANOTHER*[1], wherein this Court held as follows :-

> Censure is a minor punishment something like a warning to be careful in future. In fact, in the Order dated 24-12-1991, it was stated that a lenient view in the matter was taken to afford an opportunity to the petitioner to improve his behaviour and to be careful in his work in future. While holding so, treating the period of suspension as 'not on duty', cannot be said to have been done in good faith and good conscience. The censure itself is a punishment of a minor nature. To treat the period of suspension as not on duty is a severe punishment, by which the petitioner is denied continuity of service for the purpose of seniority, promotion etc. Therefore, though the disciplinary authority has got power, such power, in this case, was not exercised reasonably and no reasonable person could have treated the period of suspension as not on duty while imposing the minor punishment of Censure.
>
> Under those circumstances, I am of the opinion that treating the period of suspension as not on duty, while imposing a punishment of censure in the disciplinary proceedings, will lead to imposing a major punishment. As such, the action of the disciplinary authority in treating the period of suspension as not on duty is unreasonable and against good conscience. Therefore, that portion of the order dated 24-12-1991 treating the period of suspension (about 18 months) as not on duty, as confirmed by the appellate authority, is liable to be set aside and are accordingly, set aside. Now the Order dated 24-12-1991 as confirmed by the appellate authority on 3-8-1995 shall be read as "that the period of suspension will count as period spent

[1] 2007 (5) ALD 445

> on duty for all purposes including increments, seniority, promotion etc." However, the order denying payment of anything over and above the subsistence allowance granted for the period of suspension shall stand confirmed along with punishment of censure.

He also submits that in the instant case, the respondents have imposed punishment of censure against the petitioner vide proceedings dated 11.07.2014 and the respondents have treated the suspension period of the petitioner as 'not spent on duty'. Therefore, by following the law laid down by this Court in the aforesaid judgment, the respondents may be directed to treat the suspension period of the petitioner as 'spent on duty'.

The learned Government Pleader appearing for the respondents has not disputed the submission made by the learned counsel for petitioner.

This Court, having considered the rival submissions made by the learned counsel for the respective parties, is of the considered view that in view of the law laid down by this Court in the aforesaid judgment, the impugned order is liable to be set aside and the same is accordingly set aside. The respondents are directed to treat the suspension period of the petitioner as 'spent on duty' by following the law laid by this Court in the aforesaid judgment.

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

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

Date: 09-08-2019
Prv

HIGH COURT FOR THE STATE OF TELANGANA ★ HYDERABAD ★