

**HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI**

**WRIT PETITION No.21753 of 2019**

**ORDER :**

This writ petition is filed seeking a Writ of Mandamus directing the 3<sup>rd</sup> respondent to re-open the appeal filed by the petitioner by duly setting aside the rejection orders dated 27.07.2019 and sought a consequential direction to suspend the operation of the orders dated 07.07.2018 passed by the Collector & District Magistrate, Medchal-Malkajgiri District, imposing the penalty of stoppage of two annual grade increments with cumulative effect.

Heard Sri T.Vijay Hanuman Singh, counsel for the petitioner, and the Government Pleader for Services-II appearing for the respondents.

It has been contended by the petitioner that while she was working as Naib Tahsildar, she was imposed the punishment of withholding of two annual grade increments with cumulative effect *vide* proceedings dated 07.07.2018.

Counsel for the petitioner has contended that without furnishing enquiry report and without following the process of law, the disciplinary authority has imposed the punishment of withholding of two annual grade increments with cumulative effect *vide* proceedings dated 07.07.2018, and aggrieved by the same, the petitioner has preferred an appeal to the 2<sup>nd</sup> respondent on 26.02.2019. Counsel for

the petitioner further contended that the appellate authority has not adjudicated the appeal on merits, but had mechanically rejected the appeal on the ground that the appeal is filed with a delay of 143 days. It is also contended by the counsel for the petitioner that the appellate authority ought to have adjudicated the appeal on merits instead of rejecting the appeal only on the ground of delay, as the appellate authority has got ample power to condone the delay in preferring the appeal, but the appellate authority had not applied his mind and had mechanically rejected the case of the petitioner. Therefore, counsel for the petitioner contended that appropriate orders be passed in the writ petition while setting aside the order dated 27.07.2019 and to further direct the appellate authority to re-adjudicate the appeal on merits in accordance with law.

Government Pleader appearing for the respondents had contended that as per the Rules, the petitioner was supposed to file the appeal within 90 days, but the petitioner has filed the appeal after three months from the date of the order passed by the disciplinary authority and therefore, the appellate authority has rightly rejected the appeal preferred by the petitioner, and there are no merits in the writ petition and the writ petition is liable to be dismissed.

This Court, having considered the rival submissions of learned counsel for respective parties, is of the considered view that the appellate authority ought to have considered the appeal preferred by the petitioner on merits, instead of rejecting the appeal only on the

ground of delay. Therefore, the impugned order dated 27.07.2019 passed by the appellate authority is liable to be set aside, as it is violative of principles of natural justice, and the same is accordingly set aside. The 2<sup>nd</sup> respondent is directed to re-consider the appeal preferred by the petitioner in accordance with law and pass appropriate orders on merits of the appeal. The said exercise shall be completed by the 2<sup>nd</sup> respondent within a reasonable period of time, preferably within three months from the date of receipt of a copy of this order.

Accordingly, the writ petition is allowed. No order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

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**JUSTICE ABHINAND KUMAR SHAVILI**

23.12.2019

v v

