

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.23189 OF 2019

ORDER (ORAL):

With the consent of both sides, the Writ Petition is taken up for disposal at the stage of admission itself.

2. The writ petition is filed by the petitioner - M. Maheshwar, Prohibition & Excise Constable, seeking a Writ of Mandamus to direct the respondents to treat the period of his suspension from 18.08.2004 to 26.06.2006 as on duty for all purposes by disposing of the representation submitted by him on 07.03.2019, as the disciplinary proceedings initiated against him ended in imposing a minor punishment by the 1st respondent vide proceedings in Rc.No.A2/268/2004-3 dated 30.08.2008 and his appeal thereon was rejected by the order in Memo No.57621/Vig.V(1)/ 2008-1 dated 16.02.2009; by granting PRC and annual grade increments.

3. Heard Sri Rangarajula Rajasekhara Rao, learned counsel for the petitioner, and learned Government Pleader for Services - II, and perused the material on record.

4. It has been contended by the petitioner that he is working as a Prohibition and Excise Constable and in December, 2003, while he was discharging his duties, since an amount of Rs.22/- (Rupees twenty two only) was found in excess in his possession when the Anti Corruption Bureau officials made a surprise check, he was placed

under suspension and he was continued under suspension up to 26.06.2006. Thereafter, disciplinary proceedings were initiated against him and the disciplinary authority imposed a minor punishment of stoppage of one annual grade increment without cumulative effect vide proceedings dated 30.08.2008. The appeal preferred against the said order by him was rejected by the order dated 16.02.2009.

5. The grievance of the petitioner is that though the disciplinary proceedings initiated against him ended in imposing a minor penalty, the respondents are not treating the period of his suspension from 18.08.2004 to 26.06.2006 as on duty in terms of Fundamental Rules 54B. While the matter stood thus, the petitioner has submitted a representation dated 07.03.2019 to the respondents requesting them to treat the period of his suspension as on duty as the disciplinary authority has concluded the disciplinary proceedings by imposing a minor penalty.

6. Learned counsel for the petitioner submits that in the identical circumstances, this Court was pleased to allow a matter in W.P. (TR) No.5220 of 2017 dated 05.07.2019 directing the respondents to treat the suspension period of the petitioner therein as on duty as the disciplinary authority has concluded the disciplinary proceedings initiated against him by imposing a minor penalty by duly taking the law laid down by this Court in W.P. No.35783 of 2007 dated 21.06.2007 into consideration.

7. Learned Government Pleader appearing for the respondents would submit that since the petitioner has submitted a representation dated 07.03.2019, the respondents would consider the same and pass appropriate orders thereon by duly taking the law laid down by this Court into consideration.

8. Having considered the rival submissions, this Court is of the view that the writ petition can be disposed of directing the respondents to consider the petitioner's representation dated 07.03.2019 by duly taking the law laid down by this Court in W.P. (TR) No.5220 of 2017 dated 05.07.2019 and also the decision rendered by a Division Bench of this Court in W.P. No.33000 of 2017 dated 30.10.2017 into consideration and pass appropriate orders thereon within a period of eight (8) weeks from the date of receipt of a copy of this order.

9. Accordingly, the Writ Petition is disposed of at the admission stage itself. No order as to costs.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the writ petition stand closed.

ABHINAND KUMAR SHAVILI, J

October 24, 2019.
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