

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.27176 of 2005

ORDER :

This writ petition is filed seeking Writ of Certiorari calling for the records related to and connected with the impugned order dated 24.02.2005 in proceedings No.02/802(1)/2004-MLG, issued by the 2nd respondent in reducing the pay of the petitioner by two incremental stage upto the date of retirement on 31.01.2006, besides treating the suspension period as not on duty, as illegal, arbitrary and violative of Articles 14, 16 and 21 of the Constitution of India, and consequently, sought a direction to the respondents to restore the reduced pay along with all consequential benefits duly paying the wages for the suspension period.

Heard Sri V. Narsimha Goud, learned counsel for the petitioner and Sri A. Ravi Babu, learned Standing Counsel for the respondents – Corporation.

It has been contended by the learned counsel for the petitioner that the petitioner was initially appointed as a Driver on 05.02.1979 and he has been discharging his duties to the best of his ability. While so, the petitioner was placed under suspension vide order dated 19.10.2004 on the ground that he had attempted to steal the spring blade piece from the Garage. Thereafter, the petitioner has challenged the said suspension

order by way of filing W.P.No.21007 of 2004 and vide order dated 29.12.2004, this Hon'ble Court was pleased to set aside the said suspension order giving liberty to the respondents therein to proceed with the enquiry in pursuance of the Charge Memo issued to the petitioner. Learned counsel for the petitioner further contends that in pursuance of the said order passed by this Court, the petitioner was reinstated into service on 10.02.2005 and after conclusion of the enquiry, vide proceedings dated 24.02.2005, issued by respondent No.2, the respondents have imposed the punishment of reducing the pay of the petitioner by two incremental stage upto the date of retirement on 31.01.2006, besides treating the suspension period as not spent on duty. The grievance of the petitioner is that when W.P.No.21007 of 2004 filed by the petitioner was allowed vide order dated 29.12.2004 by this Hon'ble Court, the action of the respondents in treating the suspension period as not spent on duty amounts to a contradictory order passed by this Hon'ble Court and the said order dated 24.02.2005 only to the extent of treating the suspension period as 'not spent on duty' be set aside. Learned counsel for the petitioner contends that appropriate orders be passed in the writ petition directing the respondents to treat the suspension period as spent on duty with all consequential benefits.

The learned Standing Counsel for the respondents Corporation contends that since the disciplinary authority had

considered the enquiry report and after considering the entire material on record, the disciplinary authority had passed orders imposing the punishment of reduction of pay by two incremental stage upto the date of retirement for the proven misconduct and no illegality has been committed by the respondents in passing the impugned order. It is contended that as this Hon'ble Court was pleased to set aside the suspension orders of the petitioner, on the representation being submitted by the petitioner, the respondents Corporation would consider the same and pass appropriate orders in accordance with law.

Having considered the rival submissions of the learned counsel for the respective parties, this Court is of the considered view that this writ petition can be disposed of directing the petitioner to submit a fresh representation to the respondents seeking the relief to treat the suspension period as spent on duty within one week from the date of receipt of a copy of this order. Upon such representation being submitted by the petitioner, the respondents shall consider the same and pass appropriate orders in accordance with law within a further period of four weeks.

With the above observations, the writ petition is disposed of. No order as to costs.

As a sequel, miscellaneous petitions pending, if any, in this writ petition shall stand closed.

28.01.2019.
Msr

JUSTICE ABHINAND KUMAR SHAVILI

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