HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.18678 of 2016

ORDER:

When the matter is taken up for hearing, learned counsel for petitioner has contended that the respondents have imposed major penalty of withholding of one increment with cumulative effect and the suspension period was not treated as on duty. The respondents have imposed major penalty without conducting any enquiry. The issue raised in this writ petition is squarely covered by the judgment of the Hon'ble Supreme Court in *KULWANT SINGH GILL Vs. STATE OF PUNJAB*[1]

Learned Government Pleader appearing for the respondents has not disputed the law laid down by the Hon'ble Supreme Court in the aforesaid judgment and contended that the respondents have imposed penalty based on the Regulations of the respondent Corporation. Hence, no illegality has been committed by the respondents. Therefore, there are no merits in the writ petition and the same is liable to be dismissed.

This Court, having considered the rival submissions, is of the considered view that the Hon'ble Supreme Court in the aforesaid judgment held that the disciplinary authority cannot impose major penalty without conducting any enquiry. Admittedly, withholding of one increment with cumulative effect is a major penalty. As the respondents have imposed major penalty without conducting any enquiry, the impugned order passed by the respondents is liable to be set aside as it is contrary to the aforesaid judgment of the Hon'ble Supreme Court.

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[1] 1990 Law Suit (SC) 508

Hence, the writ petition is allowed setting aside the impugned order. The petitioner is entitled to all consequential benefits. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

Date: 10-04-2019
Prv