

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.1562 of 2014

ORDER

This writ petition is filed seeking the following relief:

“....to issue an appropriate writ or direction particularly one in the nature of Writ of Certiorari, quash the order of removal from service passed in Proc.No.P1/1(65)/05-ARMR, dated 08.02.2006 as well as the order of 3rd respondent issued in Proc.No.Peshi/675(17)/08-RM:NZB, dated 30.04.2008 in respect of imposing the punishment of reduction of pay by (2) incremental stages for a period of (2) years which shall have effect on future increment besides treating the removal period as not on duty and not granting all the consequential benefits as arbitrary, unjust and in violation of Art 14,16, & 21 of the Constitution of India and consequently the petitioner pray this Honble Court may be pleased to direct the respondents to restore the reduced increments and not given increments along with its benefits duly treating the removal period as on duty in the interest of justice and fair play.”

Heard Sri V.Narasimha Goud, learned counsel for the petitioner and Sri N.Vasudeva Reddy, learned standing counsel for the respondent-Corporation.

It is the case of the petitioner that he was appointed as Driver in the respondent-Corporation on 10.06.1996 and his services were regularized with effect from 1.8.1998. While so,

charge sheet dated 9.11.2005 was issued to him on the ground that he had absented to his duties. Construing the said act as misconduct, the 4th respondent *vide* order dated 8.2.2006 removed him from service. The petitioner had preferred an appeal and the same was dismissed. Thereafter, the petitioner had preferred revision before the 3rd respondent-Regional Manager. The 3rd respondent *vide* order dated 30.04.2008 had modified the punishment of removal to that of reinstatement into service by reducing his pay by two incremental stages for a period of two years with cumulative effect, besides treating the intervening period of removal as 'not on duty'. Challenging the same, the present writ petition is filed.

Learned counsel appearing for the petitioner contended that the modified punishment of removal to that of reduction of pay of the petitioner by two incremental stages for a period of two years with cumulative effect is too harsh. Learned counsel further contended that the revisional authority ought to have taken a lenient view and imposed a punishment of reduction of pay by two incremental stages for a period of two years without cumulative effect.

Learned standing counsel for the respondent corporation had contended that the charge framed against the petitioner is serious in nature and the disciplinary authority

had imposed the punishment of removal for the proven misconduct in the enquiry. Learned standing counsel further contended that the revisional authority had taken a lenient view and no further lenient view can be taken and the writ petition is liable to be dismissed.

This Court having considered the submissions made by both the parties is of the considered view that revisional authority ought to have imposed reduction of pay by two incremental stages for a period of two years without cumulative effect instead of with cumulative effect. Further, this Court had taken note of the fact that the respondent-Corporation imposed major punishment of removal for the unauthorized absence of the petitioner for a period of 326 days. Though the petitioner has submitted medical certificates, the respondent-Corporation has not considered the same. Therefore, the revisional authority has modified the punishment of removal to that of reinstatement into service, but imposed yet another major penalty of reduction of pay by two incremental stages for a period of two years with cumulative effect. Therefore, ends of justice would be met if the punishment imposed by the revisional authority is modified to that of reduction of pay by two incremental

stages for a period of two years without cumulative effect instead of with cumulative effect.

Accordingly, the Writ Petition is disposed of modifying the punishment imposed by the revisional authority to that of reduction of pay by two incremental stages for a period of two years without cumulative effect. It is made clear that the above modified punishment is without any monetary benefits.

No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

13th September, 2019
rkk

