

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.27924 OF 2019

ORDER:

This writ petition is filed seeking a writ of Certiorari to call for the records relating to and connected with the proceedings dated 13.06.2016 issued by the 1st respondent and memos dated 06.01.2017 and 24.08.2018 issued by the 2nd respondent and set aside the same by holding them as arbitrary, illegal and violative of Articles 14 and 16 of the Constitution of India and sought a consequential direction to direct the respondents to drop the disciplinary proceedings against the petitioner and accord all consequential benefits, such as monetary benefits including the release of withheld increments with arrears, and to further promote the petitioner to the post of Administrative Officer forthwith.

Heard Sri P.Amarender, counsel for the petitioner, and Government Pleader for Services-III appearing for the respondents.

It has been contended by the petitioner that he has been working as Senior Assistant with the respondents and he has been discharging his duties to the best satisfaction of his superiors and every one concerned. While the petitioner was discharging his duties, the respondents have issued a charge memo on 29.10.2010 alleging that when ACB officials conducted raid on 24.02.2010, the petitioner was found in possession of shortage of government cash of Rs.9,580/- and after conducting regular enquiry, the disciplinary authority has imposed major penalty of withholding two annual grade increments

with cumulative effect *vide* orders dated 13.06.2016. Aggrieved by the same, the petitioner has preferred an appeal to the 2nd respondent and the 2nd respondent rejected the appeal *vide* proceedings dated 06.01.2017. Thereafter, the petitioner has preferred mercy application before the 2nd respondent and the 2nd respondent had again rejected the mercy application preferred by the petitioner *vide* orders dated 24.08.2018.

Counsel for the petitioner had contended that the appellate authority has rejected the appeal by cryptic order without assigning any reasons and without giving any opportunity. The impugned rejection order dated 24.08.2018 passed by the 2nd respondent reads as follows:

“..Government have examined the appeal with reference to material available on record and observed that the punishment imposed against him is not harsh when compared to the gravity of the charge and *vide* reference 4th cited, rejected the appeal filed by Sri Shaik Nazeer, Sr.Asst., O/o. Deputy Transport Commissioner, Ranga Reddy District.”

Except the above observation, the 2nd respondent has not given any reasons and even not made any discussion in respect of the grounds raised by the petitioner. Counsel for the petitioner further contended that the 2nd respondent has also rejected the mercy application by cryptic order without assigning any reasons. Therefore, counsel for the petitioner contended that let the matter be remanded to the 2nd respondent by setting aside the impugned orders so as to

enable the 2nd respondent to adjudicate the appeal based on merits, after giving an opportunity to the petitioner, and also direct the 2nd respondent to assign reasons for each of the contentions raised by the petitioner.

Government Pleader appearing for the respondents had contended that since the orders passed by the 2nd respondent are without assigning any reasons, let the matter be remanded to the 2nd respondent, and on remand, the 2nd respondent would consider the matter afresh by giving opportunity to the petitioner and pass a speaking order in accordance with law.

This Court, having considered the submissions of learned counsel for respective parties, is of the considered view that since the impugned orders dated 06.01.2017 and 24.08.2018 passed by the 2nd respondent are cryptic and without assigning any reasons, they are liable to be set aside and are accordingly set aside. The matter is remanded to the 2nd respondent for fresh consideration in accordance with Rules and the 2nd respondent shall adjudicate the appeal preferred by the petitioner and pass speaking orders in accordance with Rule 37 of TSCS (CCA) Rules. So far as the relief of the petitioner for promotion is concerned, he can pursue the remedies available in law. It is needless to say that the 2nd respondent shall dispose of the appeal within a period of eight weeks from the date of receipt of a copy of this order.

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

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

3rd January, 2020
v v

