

THE HON'BLE THE CHIEF JUSTICE SATISH CHANDRA SHARMA

AND

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.A.No.505 of 2019

JUDGMENT: *(Per the Hon'ble the Chief Justice Satish Chandra Sharma)*

The present writ appeal is arising out of the order dated 24.12.2018 passed by the learned Single Judge in W.P.No.10493 of 2004.

The undisputed facts of the case reveal that the respondent was absent from 26.12.1997 to 29.12.1997. After conducting a departmental enquiry, a punishment was inflicted on 20.02.1998 removing him from service. Meaning thereby, for absence from 26.12.1997 to 29.12.1997, an order of removal was passed. Thereafter, an appeal was preferred and it was rejected on 19.02.2001. A review application was also preferred. By order dated 29.01.2002, the order of removal was moderated and directed reinstatement of the respondent into service by imposing the punishment of stoppage of two annual increments for a period of two years which shall have its effect on his future increments permanently.

Before the learned Single Judge, the respondent/writ petitioner contended that the punishment is shockingly disproportionate to the guilt of the employee and in those circumstances, the punishment has been moderated into the stoppage of two increments without cumulative effect. The learned Single Judge has passed the following order:-

“Learned Standing Counsel appearing for the respondent-Corporation contends that the Depot Manager as well as the Reviewing Authority have rightly imposed the punishment against the petitioner and hence, no interference is called for by this Court.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that the Reviewing Authority ought not to have imposed the punishment of postponing two annual increments for a period of two years, which shall have its effect on his future increments permanently, and treated the period from the date of removal to the date of joining as 'not on duty', while reinstating the petitioner into service, without appreciating the fact that the punishment was imposed without conducting any enquiry. Therefore, this Court feels that ends of justice would be met if the punishment of postponing two annual increments for a period of two years, which shall have its effect on his future increments permanently is modified to that of without cumulative effect.

Accordingly, the Writ Petition is disposed of. The punishment imposed by the 2nd respondent vide order dated 29.01.2002 is modified to that of postponement of two annual increments for a period of two years without cumulative effect. No costs.

Miscellaneous petitions, if any, pending shall stand closed."

In the considered opinion of this Court, for absence from 26.12.1997 to 29.12.1997, initially a removal and then a major punishment was inflicted. Therefore, keeping in view the totality of circumstances of the case, this court is of the opinion that the learned Single Judge was justified in passing the aforesaid order. This Court does not find any reason to interfere with the order passed by the learned Single Judge.

Admission is declined. The writ appeal is dismissed.

Pending miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

SATISH CHANDRA SHARMA, CJ

A. RAJASHEKER REDDY, J

22.11.2021
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