

**HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND**

HONOURABLE SRI JUSTICE K.SARATH

WRIT PETITION No.26263 OF 2006

ORDER: *(Per Hon'ble Sri Justice K.Sarath)*

This Writ Petition is filed seeking the following
relief:

“....to issue an appropriate writ, order or direction more particularly one in the nature of writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondents issue of proceedings C.No.13/PR/OE/95 DO.No.1589/96 dated 18.10.1996 imposing on petitioner the punishment of postponement of periodical increments for 2 years with effect on future increments on pension and treating suspension period from 21.03.1995 to 15.10.1995 in spite of the criminal case against the petitioner ended in acquittal as compromised and when there are no violation of service rules in the given circumstances and the A.P. Administrative Tribunal dismissal of O.A.No.765 of 2003 dated 03.04.2006 is illegal, arbitrary and consequently, direct the respondents to set aside the proceedings C.No.13/PR/OE/95 DO No.1589/96 dated 18.10.1996....”

2. Heard Sri.K.Satyanarayana, the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

3. The case of the petitioner is that he was appointed as Police Constable on 16.07.1989 with P.C.No.1722. While he was working as Police Constable in Ramadugu, on 19.04.1995 he was deputed to Karimnagar

on summons duty, after his official work was over he went to see his parents, who were residing at Karimnagar. While returning to Ramadugu he found that his brother was quarrelling with some persons, when he tried to pacify the situation he and his brother sustained injuries and he reported the matter in the Police Station, Karimnagar II Town and they were sent to Government Hospital wherein the Doctor certified that he sustained grievous injuries and his brother sustained simple injuries. The other side also lodged a complaint against the petitioner and his brother and the same was registered in Cr.No.91/95 at Karimnagar II Town Police Station under section 324 of Indian Penal Code, 1860. The Sub-Inspector, II Town Police Station, Karimnagar has submitted a report to the Superintendent of Police, Karimnagar on 26.03.1995 about the incident that happened on 19.03.1995 and the petitioner was suspended by respondent No.1 on 22.04.1995 and also issued a charge memo on 25.08.1995. Thereafter, the petitioner was reinstated into service on 18.10.1995 pending finalization of disciplinary proceedings. The disciplinary proceedings ended with imposing punishment of postponement of periodical increments for two years with effect on future increments on

pension and also issued orders treating the suspension period from 21.03.1995 to 15.10.1995 as not on duty. Against the said orders, he made appeal and the same was rejected. Thereafter, he filed revision and the was also rejected by the authorities. Against punishment order, appeal and revision, the writ petitioner has approached the Andhra Pradesh Administrative Tribunal, Hyderabad and filed O.A.No.765 of 2003. The said O.A was dismissed on 03.04.2006. The orders in O.A.No.765 of 2003 dated 03.04.2006 are impugned orders in the present Writ Petition.

4. The learned counsel for the petitioner contended that the Administrative Tribunal failed to see that the petitioner involvement in the quarrel was without any motive or aggressive towards persons who quarrelled there and the disciplinary proceedings were not in respect of his official duties. It was a private dispute because of old enmity between the parties, it was made a big issue and ultimately they compromised before the Lok Adalath.

5. The learned counsel for the petitioner further contended that the petitioner received major punishment of

stoppage of two (2) annual grade increments with cumulative effect and treating the suspension period from 21.03.1995 to 15.10.1995 was not on duty is severe and does not warrant in this case.

6. The learned counsel for the petitioner further contended that FR 54 (B) does not provide treating the suspension period as not on duty, which will indicate a break in service, and it is treated as extraordinary leave or the period has to be treated as with pay and allowances. The Tribunal erred in holding that the inquiry commenced by the respondent after following the procedure prescribed for imposing major punishment of stoppage of payment of two (2) annual grade increments with cumulative effect. The counsel for the petitioner relied upon the judgment of the Hon'ble Supreme Court reported in ***Kulwant Singh Gill vs State of Punjab***¹ and the impugned orders are liable to be set aside on the ground that the respondents were not followed the procedure for imposing major penalty.

7. The Special Government Pleader for Home appearing for the respondents contended that the Charge

¹ 1991 Supp (1) Supreme Court Cases 504

Memo dated 25.08.1995 issued under Rule 20 of APCS (CC & A) Rules, 1991, which contemplates the procedure for imposing major penalty. The petitioner submitted his explanation for the charge memo and participated in the oral enquiry conducted by the enquiry Officer. The enquiry officer submitted his report and held that the charge was proved against the petitioner and the competent authority after following the procedure contemplating in Rule 20 of APCS (CC & A) Rules, 1991, imposed the punishment of postponement of periodical increments for 2 years with effect on future increments on pension and treating suspension period from 21.03.1995 to 15.10.1995 as not on duty of the petitioner.

8. The Special Government Pleader further contended that the Tribunal while dismissing the O.A.No.765 of 2003 dated 03.04.2006 filed by the petitioner rightly held that the respondents have followed the prescribed procedure and inflicted the major punishment and impugned proceedings held to be not illegal or arbitrary and within the powers of discretion of the respondents.

9. The learned Special Government Pleader further contended that Rule 54 (B) of Fundamental Rules is not applicable to the instant case. Unless and until the punishment is set aside, the suspension period will remain as not on duty, as such, the pay and allowance for the above suspension period will not be drawn and in fact, the criminal case in Crime No.91/95 under section 324 of Indian Penal Code, 1860 of Karimnagar II Town Police Station ended in compromise at Lok Adalath, which shows that the petitioner has admitted his guilt. His entering into compromise with the complainant in the criminal case has nothing to do with the Departmental Enquiry, which is confirmed and proved the misconduct of the petitioner and the writ petition is liable to be dismissed.

10. This Court having considered the rival submissions appear to respective parties is of considered view that the respondent authorities followed Rule 20 of APCS (CC & A) Rules, 1991 for imposing the punishment of postponement of periodical increments for 2 years with effect on future increments on pension and treating suspension period from 21.03.1995 to 15.10.1995 as not on duty of the petitioner.

11. That the Administrative Tribunal rightly held that the petitioner has not questioned the procedure followed by the respondents in conducting the inquiry and the petitioner, has chosen to submit himself and informed that the criminal case was ended with compromise and it shows his involvement in the incident. The reason for the respondents chosen to inflict punishment was that the petitioner being a member of uniform force, which is expected to maintain law and order, involved himself along with his brother in a private fight instead; he could have used legal means for settling the matter.

12. The contention of the petitioner that the respondents not followed the procedure for imposing major penalty is contrary to the records and the respondents issued charge memo under Rule 20 of APCS (CC & A) Rules, 1991 and the petitioner submitted his explanation and also participated in the inquiry. Thereafter, he submitted his written explanation for the show cause notice issued basing on the inquiry report. It clearly shows that the respondents followed the procedure contemplated under APCS (CC & A) Rules, 1991 for imposing major penalty to the petitioner. Moreover, the petitioner himself admitted that the

criminal case was ended with compromise in Lok Adalath and the involvement of the petitioner in criminal case was established. The judgment relied upon by the learned counsel for the petitioner is not applicable to the instant case. The learned Tribunal rightly held that it did not find any reason to interfere with the decision of the disciplinary authority as well as the Review Authority. Therefore, there is no reason to interfere with the order passed by the Tribunal in O.A.No.765 of 2003 dated 03.04.2006 and the writ petition is liable to be dismissed. Accordingly, this writ petition is dismissed. There is no order as to costs.

13. Pending miscellaneous applications, if any, shall stand closed.

ABHINAND KUMAR SHAVILI,J

K. SARATH, J

Date :

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