

**HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
HON'BLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO**

W.P.No.35651 OF 2013

ORDER: *(Per Hon'ble Sri Justice Abhinand Kumar Shavili)*

Aggrieved by the order dated 30-07-2012 passed in O.A.No.12748 of 2009 by the Andhra Pradesh Administrative Tribunal (for short 'the Tribunal'), Hyderabad, the present writ petition has been filed.

Heard learned Government Pleader for Services-II appearing for the petitioners and Sri V.Ravichandran, learned counsel appearing for the respondents.

It is the case of the petitioners that the 1st respondent was working as Mandal Parishad Development Officer and while so, the disciplinary authority has initiated disciplinary proceedings against her alleging that she has not properly discharged her duties. Hence, the 2nd petitioner has issued charge memo dated 12.06.2006 framing 11 charges against the 1st respondent. Since the explanation submitted by the 1st

respondent was not convincing, the disciplinary authority has ordered for regular departmental enquiry and for the proven misconduct, the disciplinary authority has imposed the punishment of stoppage of three annual grade increments with cumulative effect *vide* proceedings dated 12.08.2008. Aggrieved by the same, the 1st respondent has preferred an appeal and the same was dismissed. Challenging the same, the 1st respondent has approached the Tribunal by filing O.A.No.12748 of 2009. Without appreciating any of the contentions raised by the petitioners, the Tribunal *vide* order dated 30-07-2012 partly allowed the OA and modified the punishment of stoppage of three annual grade increments with cumulative effect to that of stoppage of one increment with cumulative effect. Hence, the present writ petition is filed.

Learned Government Pleader appearing for the petitioners had contended that the Tribunal although

confirmed the misconduct committed by the 1st respondent, but modified the punishment from stoppage of three increments with cumulative effect to that of stoppage of one increment with cumulative on the ground that the punishment imposed by the disciplinary authority is shockingly disproportionate to the charges leveled against the 1st respondent. Learned Government Pleader had further contended that if the Tribunal was of the view that the punishment is not in commensurate with the charges levelled against the 1st respondent, the Tribunal ought to have remanded the matter back to the disciplinary authority to impose appropriate punishment. But the Tribunal had modified the punishment on its own, which is not permissible under law. Therefore, appropriate orders be passed in the writ petition by setting aside the order passed by the Tribunal.

Learned counsel appearing for the respondents had contended that since the punishment of stoppage of three annual grade increments with cumulative effect is shockingly disproportionate to the gravity of the misconduct allegedly committed by the 1st respondent, the Tribunal has modified the punishment to that of stoppage of one increment with cumulative effect. Therefore, the Tribunal was justified in modifying the punishment. More so, the 1st respondent has retired from service on attaining the age of superannuation. Therefore, there are no merits in the writ petition and the same is liable to be dismissed.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the view that the Tribunal was not justified in modifying the punishment on its own. If the Tribunal was of the view that the punishment of stoppage of three annual grade increments with cumulative effect is shockingly disproportionate to the

charges leveled against the 1st respondent, then the Tribunal ought to have remanded the matter back to the disciplinary authority. Therefore, the order passed by the Tribunal is liable to be set aside.

Accordingly, the Writ Petition is allowed. The order dated 30-07-2012 passed in O.A.No.12748 of 2009 is set aside and the matter is remanded back to the petitioner-authorities to pass appropriate orders by duly taking into consideration the fact that the 1st respondent has already retired from service. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

JUSTICE NAMAVARAPU RAJESHWAR RAO

Date: 07.12.2022

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