

THE HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

AND

THE HONOURABLE SRI JUSTICE PULLA KARTHIK

Writ Petition No.22304 of 2010

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

This Writ Petition is filed by the petitioner under Article 226 of the Constitution of India seeking a *Writ of Certiorari* by calling for the records relating to and connected with the order passed in O.A.No.8150 of 2009, dated 23.09.2009, by the Andhra Pradesh Administrative Tribunal, Hyderabad (for short, 'the Tribunal') as illegal, arbitrary and unconstitutional, and to quash the same by holding it as erroneous and contrary to law.

2. Heard Mr.G.Elisha, learned counsel for the petitioner, and Mr. M. Surender Rao, learned Government Pleader for Services-II, for the 1st respondent.

3. Learned counsel for the petitioner contended that 1st respondent was working as Office Superintendent and he had indulged in forging the signature of Executive Engineer and drawn a sum of Rs.86,400/- from Kakatiya Grameena Bank, Mahabubabad; thereafter, the disciplinary authority initiated disciplinary proceedings against the 1st respondent; the disciplinary authority imposed a punishment of dismissal from

service for the proven misconduct in the domestic enquiry, vide proceedings dated 19.08.2008; aggrieved by the said order of dismissal from service, the 1st respondent approached the Tribunal by filing O.A.No.8150 of 2009; and the Tribunal, vide order dated 23.09.2009, was pleased to set aside the order of dismissal without appreciating any of the contentions raised by the petitioner.

4. Learned counsel for the petitioner further contended that the 1st respondent was indulged in serious irregularities and also forged the signature of Executive Engineer and the said charge was held to be proved in the domestic enquiry; and when the disciplinary authority has imposed a punishment of dismissal from service for the proven misconduct in the domestic enquiry, the Tribunal ought not to have interfered with the dismissal order; and therefore, prayed this Court to pass appropriate orders in the Writ Petition by setting aside the order passed by the Tribunal in O.A.No.8150 of 2009, dated 23.09.2009.

5. On the other hand, learned counsel for the 1st respondent contended that the 1st respondent had retired from service on 30.06.2008 on attaining the age of superannuation, and when

once the 1st respondent had retired from service the disciplinary authority cannot issue orders of dismissal; it is only the Government which has got power to impose punishment in terms of Rule 9 of Revised Pension Rules; therefore, the Tribunal was justified in allowing the O.A. in favour of the 1st respondent; and therefore, contended that there are no merits in the Writ Petition and the same is liable to be dismissed.

6. This Court, having considered the rival submissions made by the parties, is of the considered view that the 1st respondent had retired from service on 30.06.2008 on attaining the age of superannuation; but the disciplinary authority has imposed a punishment of dismissal from service vide order dated 19.08.2008 which would mean that the disciplinary authority had imposed punishment of dismissal from service after the 1st respondent had retired from service; the disciplinary authority is not the competent authority to impose such a punishment; at best, the disciplinary authority ought to have referred the case to the State Government so as to enable the State Government to conclude the disciplinary proceedings in terms of Rule 9 of the Revised Pension Rules. Therefore, this Court is not inclined to interfere with the order passed by the Tribunal. Accordingly, the Writ Petition is dismissed. No costs.

7. As a sequel, miscellaneous applications pending if any in this Writ Petition, shall stand closed.

ABHINAND KUMAR SHAVILI, J

PULLA KARTHIK, J

Date : 09.01.2023
Ndr