

**HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
HON'BLE SRI JUSTICE PULLA KARTHIK**

W.P.No.20606 OF 2006

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

Aggrieved by the order dated 22.10.2003 passed in O.A.No.3788 of 2002 by the Andhra Pradesh Administrative Tribunal, Hyderabad, the present writ petition has been filed.

2. Heard Sri Goda Mallikarjun, learned counsel appearing for the petitioner and learned Government Pleader for Services-I appearing for the respondents.

3. It is the case of the petitioner that he was working as a Police Constable and on 05.02.1994, he was entrusted with guard duty at Toopran Police Station and he was reported to duty around 9.00 P.M. As there were no restraints around the Police Station, he went to a nearby hotel to have dinner and in the interregnum, the Additional Superintendent of Police has come to the Police Station and noticed that the petitioner was not on duty. Disciplinary authority has construed the said absence of 10

minutes as misconduct and initiated disciplinary proceedings against him. After conducting a detailed enquiry and for the proven misconduct, the disciplinary authority has imposed the punishment of postponement of two increments by two years with effect on future increments of pension besides treating the suspension period from 10.03.1994 to 25.06.1994 as 'not on duty'. Thereafter, the petitioner has unsuccessfully preferred appeal and revision. Later, challenging the said punishment, the petitioner has approached the Tribunal by filing O.A.No.3788 of 2002 and without appreciating any of the contentions raised by the petitioner, the Tribunal *vide* order dated 22.10.2003 dismissed the said O.A. Hence, the present writ petition has been filed.

4. Learned counsel appearing for the petitioner had contended that the petitioner has left the Police Station only for his meals at 9.30 P.M, but the disciplinary authority has construed the same as misconduct and imposed the punishment, which is shockingly disproportionate to that of the charges leveled against him, which will have effect on his future increments as well as pension also. Therefore, appropriate

orders be passed in the writ petition atleast modifying the punishment of postponement of two increments for a period of two years with effect on future increments and pension to that of without cumulative effect on future increments and pension.

5. Learned Government Pleader appearing for the respondents had contended that the absenting from duty that too when the petitioner was entrusted with the guard duty is a serious and grave misconduct. Therefore there are no merits in the writ petition and the Tribunal was justified in dismissing the O.A.

6. Having considered the rival submissions made by the leaned counsel on either side, this Court is of the view that admittedly, the petitioner was absented himself from duty only for 10 minutes, that too, for having dinner. No doubt, the conduct of the petitioner amounts to misconduct, but the disciplinary authority has imposed the punishment of postponement of two increments with effect on future increments and pension, which is too harsh punishment. Since it is a minor lapse on the part of the petitioner, we are inclined to

reduce the punishment. Therefore, ends of justice would be met, if the punishment imposed against the petitioner by the disciplinary authority is modified to that of postponement of increments for a period of two years without effect on future increments and pension.

7. Accordingly, the Writ Petition is disposed of. The punishment imposed against the petitioner is modified to that of postponement of two increments for a period of two years without effect on future increments and pension. However, it is made clear that the petitioner is entitled to only notional benefits. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

JUSTICE PULLA KARTHIK

Date: 24-01-2023
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