

THE HON'BLE SRI JUSTICE DILIP B.BHOSALE

AND

**THE HON'BLE SRI JUSTICE A.RAMALINGESWARA
RAO**

WRIT APPEAL No. 10 of 2007

JUDGMENT: (per the Hon'ble Sri Justice Dilip B.Bhosale)

This writ appeal is directed against the order, dated 19.06.2006, dismissing the writ petition filed by the appellant against the award, dated 28.06.2004, passed by Labour Court in I.D.No.161 of 2002. By the award, the Labour Court set aside the punishment of reduction of annual increment for a period of two years with cumulative effect and recovery of the amount of Rs.1,000/- towards damages.

We have perused the impugned order and we find that the learned Single Judge refused to interfere with the same holding that withholding of annual increment with cumulative effect is a major punishment and without conducting domestic enquiry, the same cannot be imposed.

It is not in dispute that a domestic enquiry was not conducted while imposing the punishment of reduction of annual increment for two years with cumulative effect. Learned Judge for taking such view, placed reliance upon the judgment of this Court in **Sk.Masthan Vs. Managing Director, APSRTC and**

others^[1]. Relevant observations made in the order read thus:

“A perusal of the award of the Labour Court clearly indicates that initially the management, without conducting any domestic enquiry, withheld the increment of the workman, and on realizing its mistake, the management to get over the judgment of this Court in **Sk. Masthan vs. managing Director, APSRTC and others¹**, wherein it was held that withholding of annual increment with cumulative effect is a major punishment, and without conducting a domestic enquiry the same cannot be imposed, had let in evidence before the Labour Court. The award of the Labour Court further discloses that the witness-MW-1, examined by the management, is not an eyewitness to the incident, he gave evidence merely based on the record. The Labour Court, on considering the said circumstances and on appreciation of the entire evidence, both oral and documentary, available on record, found that the petitioner-Corporation failed to prove the guilt of respondent No.1-workman, and that the action of the petitioner-Corporation in imposing the punishment of reduction of annual increment for a period of two years with cumulative effect besides recovery of an amount of Rs.1000/- towards damage caused to the vehicle, on respondent No.1-workman was not justified. Holding so, the Labour Court, passed the impugned award setting aside the said punishment imposed on respondent No.2-workman by the petitioner-Corporation, and no exception can be taken thereto.

The award of the Labour Court, judged from the parameters of certiorari jurisdiction of this Court under Article 226 of the Constitution of India, does not call for interference, for the petitioner-Corporation failed to point out any infirmities.

The writ petition is devoid of merit and the same is accordingly dismissed. “

Learned counsel appearing for respondent No.1 placed one more judgment of the Division Bench of this Court in **Depot Manager, APSRTC, Anantapur District and another Vs.**

K.Adireddy^[2], wherein a similar question was considered, and it was held that withholding of increments with cumulative effect would be major penalty, which would attract regular procedure under the Regulations, and therefore, such action would be wholly unsustainable if an enquiry contemplated under the Regulations was not conducted.

In this view of the matter, we do not find any reason to interfere with the order passed by the learned Single Judge. Writ appeal is accordingly dismissed. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any, also stand disposed of.

DILIP B.BHOSALE,J

**A.RAMALINGESWARA
RAO,J**

Dt:04.02.2015

kdI

[\[1\]](#) 1992 (2) ALT 109

[\[2\]](#) 2006 (4) ALD 501 (DB)