

**HON'BLE SRI JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO**

WRIT APPEAL No. 317 OF 2006

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

This writ appeal is directed against the order dated 06-10-2005 passed in Writ Petition No. 21837 of 2005, whereby the said petition, filed by the respondent, was partly allowed. In the writ petition, the respondent had challenged the order dated 09-02-1999 issued by appellant No.2 whereby the penalty of stoppage of two increments with cumulative effect on the future increments was imposed. By the impugned order, the learned single Judge modified the penalty of stoppage of two increments without cumulative effect and made it clear that the respondent would not be entitled for any monetary benefits up to the date of the order i.e., 06-10-2005.

Learned counsel for the appellants submitted that the learned Judge did not take into consideration the delay in filing the writ petition. He submitted that there was a delay of three years in filing the writ petition and on this ground alone, the writ petition ought to have been dismissed.

We have perused the order as well as the grounds of appeal. Though in the grounds of appeal, the appellants have stated that the learned Judge, while dealing with the writ petition, ought to have dismissed the writ petition on the ground of delay and laches, did not raise such contention before the learned Judge. There is absolutely nothing in the impugned order, on the basis of which the appellants could claim that such contention was raised and it was not considered. The impugned order cannot be faulted in view of the fact that the learned Judge did not have an occasion to consider the ground of delay and laches. That apart, the appellants even did not

file counter in the writ petition raising such objection for entertaining the writ petition.

Having regard thereto, we are not inclined to entertain such contention for the first time in the writ appeal. In the circumstances, the writ appeal is dismissed. We may also observe that the learned counsel for the appellants did not raise any other contention.

Miscellaneous petitions, if any, also stand disposed of. No costs.

DILIP B. BHOSALE, J

A. RAMALINGESWARA RAO, J

22-01-2015

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