

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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WRIT PETITION No.19813 of 2008

ORDER:

The Andhra Pradesh State Road Transport Corporation (APSRTC) filed this writ petition through its Depot Manager, Narsampet Bus Depot, Warangal, assailing the Award dated 05.09.2007 passed by the Industrial Tribunal-cum-Labour Court, Warangal (for brevity, 'the Tribunal'), in I.D.No.65 of 2006. By the said Award, the Tribunal while answering the reference made under Section 10(1)(d) of the Industrial Disputes Act, 1947, held that the APSRTC was not justified in imposing the punishment of deferment of the workman's annual increment for a period of two years which shall have effect on future increments as it had failed to conduct a domestic enquiry and accordingly modified it to the lesser punishment of deferment of his annual increment for a period of two years without cumulative effect.

By order dated 11.09.2008, this Court granted interim suspension of the impugned Award. However, by the later order dated 23.04.2010, this Court vacated the interim suspension granted earlier.

Sri P.Sridhar Rao, learned counsel for the 2nd respondent-workman, asserted that the punishment imposed upon his client was a major punishment but the APSRTC admittedly did not conduct a domestic enquiry before resorting to this measure.

Learned Standing Counsel appearing for the Telangana State Road Transport Corporation, the successor-in-interest of the erstwhile APSRTC in the State of Telangana, fairly conceded that no domestic enquiry was conducted in the matter and the punishment was imposed on the 2nd respondent-workman on the basis of findings recorded in a preliminary enquiry.

In the light of the law laid down by the Supreme Court in **Kulwant Singh Gill v. State of Punjab**, the punishment of withholding of increments with cumulative effect, being a major penalty, cannot be imposed without conducting regular enquiry. This is in keeping with the APSRTC Regulations also as the punishment of withholding of an increment with cumulative effect would have the effect of reducing

the pay scale of the workman and would therefore qualify as a major punishment and would not fall within the ambit of the minor penalty of mere withholding of an increment.

That being so, this Court finds no irregularity in the step taken by the Tribunal in reducing the punishment to a minor penalty taking into account the fact that no regular enquiry had been held against the 2nd respondent-workman. The Award under challenge therefore does not brook interference on any ground and is accordingly confirmed.

The writ petition is devoid of merit and is accordingly dismissed.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

Date:07.10.2015

GJ