THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO
AND
THE HON'BLE MRS. JUSTICE ANIS

WRIT APPEAL No. 783 OF 2015

J U D G M E N T: ***(per Hon'ble Sri Justice Nooty Ramamohana Rao)***

This Writ Appeal is directed against an interlocutory order passed by the learned Single Judge giving direction to the respondent in the Writ Petition to calculate the terminal benefits payable to the petitioner in terms of her entitlement and remit the same expeditiously in any event not later than four weeks from the date of receipt of a copy of that order. The respondent Society is hence, the appellant before us.

It is urged by Sri K. Ramanujachari, learned Standing Counsel for the Society that in the order of punishment imposed on the petitioner on 27.03.1999, a caveat has been entered setting forth that the order of punishment can be revised and revoked at any time and any moment upon receipt of the CBCID report. The punishment imposed on the petitioner was that of withholding one annual grade increment without cumulative effect, under Rule 23 (b) of the SETWIN Employees' (Discipline, Conduct and Appeal) Rules, 1983. The petitioner has accepted this punishment and she has not challenged its correctness. The petitioner, ultimately, retired from service on attaining the age of superannuation on 28.02.2014. Hence, she staked a claim for payment of terminal benefits. On the ground that the Society has sustained loss of more than Rs. 2 lacs on the count of the services rendered by the petitioner, it is not settling her terminal benefits.

The argument of the learned Standing Counsel that the caveat entered in the order of punishment gives power to the Society to withhold the money from the terminal benefits payable to the petitioner, is not sustainable at all. Firstly, the order of punishment is passed on

27.03.1999 and nearly 15 years' period has elapsed thereafter by the date of the eventual retirement of the petitioner from the services of the Society and if an order has not been revised for 15 long years, such an order cannot be revised at this distant point of time either.

This apart, when we enquired from the learned Standing Counsel as to whether the rules/regulations framed by the Society have authorized withholding of any money, representing the terminal benefits or to affect any recovery there from, he is not in a position to assert that there is any such provision. The only provision, which he places reliance upon in this regard, reads as under:

> " (c) degradation to a lower post or part of any pecuniary loss caused to the society by the employee."

Firstly, this is a provision under the Disciplinary Control Rules. It authorizes the Society to impose the punishment of degradation, obviously meaning reduction in rank, but however, care has not been taken in the latter portion of the said order where the crucial expression "recovery of the pecuniary loss caused to the society" is found missing. Even assuming that the loss caused to the Society can be recovered, as a measure of punishment, any such punishment can only be imposed against an employee, who is in service. If any recovery is to be affected from the terminal benefits, there should be a specific provision made in that regard. In the absence of any such specific provision, the terminal benefits payable to an employee cannot be subjected to such recoveries. We are therefore, convinced that the order passed by the learned Single Judge does not warrant any interference at our hands. Hence, the Writ Appeal stands dismissed. No costs.

Consequently, the miscellaneous applications, if any shall also stand dismissed.

NOOTY RAMAMOHANA RAO, J

ANIS, J

25th August 2015

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