

HON'BLE SRI JUSTICE R. KANTHA RAO

W.P.No.15810 of 2015

ORDER:

Heard learned counsel appearing for the petitioner and learned Standing Counsel appearing for the respondent-Corporation.

This writ petition is filed seeking to declare the action of the 2nd respondent in imposing major punishment of deferment of annual increment for a period of one year with cumulative effect *vide* proceedings dated 25.10.2014, as arbitrary and illegal.

The 3rd respondent was appointed as Conductor and working as such. While so, charge sheet was issued to him on 12.08.2008 in relation to collection of excess amount of Rs.2/- and on the same day, he was placed under suspension. Aggrieved thereby, he filed W.P.No.18130 of 2008 before this Court and the same was allowed by setting aside the impugned order *vide* order dated 25.08.2008. Thereafter, he was reinstated into service. But, contrary to the said order, the 3rd respondent, based on the enquiry report, issued order-cum- show cause notice dated 01.12.2012 imposing major punishment of deferment of annual increments for a period of two years with cumulative effect besides treating the suspension period as not on duty. Challenging the same, the petitioner preferred an appeal before the appellate authority and the same was rejected *vide* proceedings dated 30.11.2013. Thereafter, he preferred review before the 2nd respondent-Regional Manager, who in turn, modified the punishment to that of deferment of annual increment for a

period of one year with cumulative effect. Hence, the writ petition.

The grievance of the petitioner is that without calling for objections on the enquiry report and without issuing any notice as required under the Regulations of the Corporation governing the petitioner, the respondent-Corporation imposed major punishment of deferment of annual increments.

Obviously, the punishment imposed on the petitioner is a major penalty as per Regulation 8 (1) (vii) of the APSRTC Employees' (Classification, Control and Appeal) Regulations, 1967. Further, as per Regulation 12 (13) of the said Regulations, an employee is required to be put on notice before inflicting the major punishment on him.

Learned Standing Counsel appearing for the respondent-Corporation submits that since the petitioner did not submit any explanation to the show cause notice issued to him and did not participate in the enquiry, the said punishment was imposed on him and therefore, the same cannot be assailed by the petitioner in the present writ petition.

Having considered the said submissions, this Court is of the view that even though the petitioner did not participate in the enquiry, and did not respond to the show cause notice issued to him, it is obligatory on the part of the respondent-Corporation to put him on notice before imposing major punishment as required under Regulation 12 (13) of the Regulations. But, at this length of time, if the matter is remitted to the disciplinary authority to impose appropriate punishment it would cause hardship to the petitioner.

Therefore, the punishment imposed on the petitioner is modified to that of stoppage of one annual increment without cumulative effect.

Accordingly, the Writ Petition is disposed of. No costs.

Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE R. KANTHA RAO

6th October, 2015

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