THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

AND

THE HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

<u>WRIT APPEAL No.327 OF 2006</u>

<u>ORDER</u>: *(Per Hon'ble Sri Justice Nooty Ramamohana Rao)*

While dealing with W.A.No.117 of 2016, we have answered a similar contention urged by the Andhra Pradesh State Road Transport Corporation in the following words:

> "This appeal is preferred by the Andhra Pradesh State Road Transport Corporation and its Depot Manager, Tandur Depot, Tandur, Ranga Reddy District calling in question the correctness of the judgment rendered by the learned Single Judge in a batch of 4 writ petitions on 19.11.2015. A very short question which engaged the attention of the Court is as to whether stoppage of increment with cumulative effect can be imposed by the Corporation without following the procedure prescribed under the APSRTC (CC&A) Regulations or not? The learned Single Judge, before exercising the discretion, has noticed the principle set out on the subject by the Supreme Court in "Karnataka Power Corporation Limited v. Thangappan and another [(2006) 4 Supreme Court Cases 322] and thereafter the learned Single Judge allowed the writ petitions in part directing that the punishment orders imposed by the competent authority be treated as one of stoppage of annual increments without cumulative effect. Learned Single Judge has also tempered his discretion by denying to the petitioners any monitory benefit arising therefrom. In effect, the judgment of the learned single Judge would merely remove the element of cascading effect which normally flows from the "cumulative effect" that was attached to the order of punishment. Illustratively put, if one annual grade increment is withheld with cumulative effect, such an employee will loose the

> benefit of one annual grade increment forever. Whereas, if one annual grade increment is withheld for a period of one year without cumulative effect, the loss liable to be suffered by the employee would get quantified by multiplying the quantum of money the increment will fetch by ‘12’. In other words, imposition of a punishment without cumulative effect would be transitory in nature leaving the employee with an immediate monitory loss. Whereas, if the same increment is withheld with cumulative effect, the loss can never be recouped and it can travel beyond the retirement and the terminal benefits payable to the employee also would be impacted. Keeping these factors in mind, it has been held that imposition of withholding increments with cumulative effect is liable to be treated as ‘a major punishment’ and consequently, the elaborate procedure prescribed for imposition of major punishment will have to be followed. Wherever, such prescribed procedure has not been followed, it is only appropriate that such punishment cannot be allowed to take effect. That is what has been done by the learned single Judge. Hence, we do not find any justifiable reason to interfere with the discretion exercised by the learned single Judge. Accordingly, the writ appeal is dismissed. No costs. Consequently, the miscellaneous petitions pending, if any, shall also stand closed.

Following the said judgment, this writ appeal also stands dismissed in the same terms.

Consequently, miscellaneous applications pending if any, shall also stand dismissed. No costs.

JUSTICE NOOTY RAMAMOHANA RAO

DR. JUSTICE B. SIVA SANKARA RAO

21.03.2016
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