

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE DR. JUSTICE B.SIVA SANKARA RAO**

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WRIT APPEAL NO.159 OF 2009

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J U D G M E N T

(per Hon'ble Sri Justice Sanjay Kumar)

The Depot Manager, Andhra Pradesh State Road Transport Corporation (for short, 'APSRTC'), Parkal Bus Depot, Warangal District, the petitioner in W.P. No.16052 of 2008 is in appeal against the order dated 25.07.2008 passed by a learned Judge dismissing the said writ petition. Challenge in the said writ petition was to the Award dated 06.08.2007 passed by the Industrial Tribunal-cum-Labour Court, Warangal in I.D. No.33 of 2006. The said I.D came up on a reference made under Section 10(1)(d) of the Industrial Disputes Act, 1947, at the behest of the 2nd respondent herein, a conductor in the service of the APSRTC. By order dated 22.06.1994, the APSRTC imposed the punishment of deferment of his annual increments for a period of two years with cumulative effect. This was the subject matter of the reference. The Industrial Tribunal found that the said punishment was imposed upon the 2nd respondent without holding any enquiry. Applying the law laid down by the Supreme Court in ***Kulwant Singh Gill V. State of Punjab***^[1], the Industrial Tribunal held that the action of the APSRTC was unsustainable, and substituted the said punishment by converting it to deferment of the 2nd respondent's annual increments for a period of two years without cumulative effect. Aggrieved by this Award, the APSRTC filed the writ petition. The learned Judge, however, took note of the factual circumstances and as the APSRTC was bound by its own regulations to impose the major penalty in the form of withholding of increments with cumulative effect only after holding an enquiry, confirmed the decision of the Industrial Tribunal. Dealing with the contention advanced as to the delay in the making of the reference, the learned Judge found that the APSRTC had never raised an objection after the reference was made by laying a challenge thereto and on the other hand, it participated in the proceedings before the Industrial Tribunal without demur. On this ground, the learned Judge refused to interfere on the delay aspect.

Sri B.Mayur Reddy, learned counsel for the Telangana State Road Transport Corporation, the successor in interest of the APSRTC in the State of Telangana, would contend that as the 2nd respondent admitted his guilt, the learned Judge ought to have taken the same into account. He, however, does not dispute the fact that the regulations of the Road Transport Corporation require it to necessarily hold an enquiry before imposition of a major penalty and he also does not dispute that withholding of increments with cumulative effect amounts to a major penalty. In that view of the matter, once there was violation by the Road Transport Corporation of its own regulations, in terms of holding a mandatory enquiry, we find no reason to interfere with the order under appeal.

The writ appeal is devoid of merit and is accordingly dismissed. Pending miscellaneous petitions shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

DR. B.SIVA SANKARA RAO, J

30th JUNE, 2016

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[\[1\]](#) (1991) SCC suppl.(1) 504