

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT

WRIT APPEAL NO.261 OF 2016

JUDGMENT: {Per the Hon'ble Sri Justice Ramesh Ranganathan}

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the learned Single Judge in WV.MP.No.2811 of 2015 in WP.No.18608 of 2015 dated 06.01.2016 vacating the earlier interim order whereby the punishment imposed on the petitioner/appellant herein, of compulsory retirement from service, was suspended.

In the order under appeal, the learned Single Judge relied on the judgments of the Supreme Court in **State of U.P. v. Visheshwar^[1]**, **Dayanand Vedic Vidyalaya Sanchalak Samiti v. Education Inspector, Greater Bombay^[2]** and **Indoor Development Authority v. Mangal Amusement Private Limited^[3]**, to hold that interim orders, of the nature of granting the main relief itself, should not normally be granted; and, since suspension of the order of punishment virtually amounted to allowing the Writ Petition itself, the interim order necessitated vacation.

Before us Sri J.Sudheer, learned counsel appearing on behalf of the appellant, would vehemently contend that another officer, who was found guilty of the charges which the petitioner was found guilty of, was let off with imposition of Rs.1,00,000/- as penalty whereas the petitioner was imposed a major penalty of compulsory retirement from service. On the other hand Sri A.Krishnam Raju, learned Standing Counsel for the respondent-Bank, would point out that the other officer was due to retire within one month from the date of the order of punishment; and, as he had admitted to the charges and had submitted himself to the disciplinary jurisdiction of the competent

authority, he was imposed the punishment of imposition of penalty of Rs.1,00,000/- as fine; and, in any event, both the employees were not continued in service one month after the punishment was imposed on them.

The question whether the petitioner has been discriminated against, with regards the nature of punishment imposed on him, is again a matter which can only be examined when the main Writ Petition is finally heard, and no finding of fact could have been recorded, on such an issue, at the interlocutory stage. We are satisfied that the present Writ Petition does not constitute an exceptional case necessitating deviation from the law declared by the Supreme Court that, ordinarily, interim relief, which would have the effect of grant of the main relief, should be avoided. We find no error in the order of the learned Single Judge necessitating interference in an intra-Court appeal under Clause 15 of the Letters Patent.

We, however, find considerable force in the submission of Sri J.Sudheer, learned counsel for the appellant, that matters, such as these, necessitate an early and out of turn hearing, more so as the appellant is said to have undergone a bypass surgery and to have incurred huge medical expenses in this regard. While it may not be appropriate for us to determine the board of the learned Single Judge, or to fix a date on which the appeal should be heard, we have no reason to doubt that, on a request for early hearing being made by the learned counsel for the appellant herein, the learned Single Judge would consider taking up the matter for final hearing at an early date.

Subject to the above observations, the appeal fails and is, accordingly, dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand dismissed.

(RAMESH RANGANATHAN, J)

(SURESH KUMAR KAIT, J)

22nd April 2016
RRB

[\[1\]](#) 1995 Supp (3) SCC 590
[\[2\]](#) (2007) 15 SCC 192
[\[3\]](#) (2010) 12 SCC 514