

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

WRIT PETITION No.11738 of 2011

Between :

Y.Haji Basha

..

Petitioner

And

The APSRTC. Rep.by its Managing Director, Musheerabad,
Hyderabad and others.

..

Respondents

DATE OF JUDGMENT PRONOUNCED : 03-07-2017

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

1. Whether Reporters of Local Newspapers : Yes / No
may be allowed to see the Judgments ?
2. Whether the copies of judgment may be : Yes / No
marked to Law Reporters/Journals
3. Whether Their Lordship wish to : Yes / No
see the fair copy of the Judgment ?

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.11738 of 2011

ORDER :

Heard Sri A.Jagan, learned counsel for the petitioner and Sri Aravala Rama Rao, learned Standing Counsel for the respondents.

02. Initially the disciplinary authority imposed punishment of withholding one increment with cumulative effect for a period of two years and the revisional authority while confirming the punishment of disciplinary authority modified said punishment of withholding annual increment from two years to one year with cumulative effect vide proceedings No.PA/19(270)2005-RMQ, dated 18-10-2005. Challenging the same, the present writ petition is filed.

03. The only submission made by learned counsel for the petitioner is that the punishment imposed against the petitioner is major penalty as his increment is withhold permanently. Withholding one increment permanently has cascading effect on the entire career and after the retirement of the petitioner. According to learned counsel for the petitioner, no such punishment can be imposed without following due process and without conducting enquiry. In support of said contention, learned counsel placed reliance on the judgment of Supreme Court in **Kulwant Singh Gill v. State of Punjab¹**.

04. It is specifically asserted by the learned counsel for respondents that explanation was called from the petitioner on the charge leveled and not satisfied with the explanation of the

¹ 1991 SCC Suppl.(1) 504

petitioner, domestic enquiry was ordered. Enquiry Officer held the charges proved. Based on the finding of the Enquiry Officer, show-cause notice was issued and on consideration of further explanation, punishment was imposed by the disciplinary authority. The petitioner preferred appeal. However, the appellate authority rejected the appeal on the ground of time barred. The petitioner preferred revision and said revision was considered on merits and punishment was modified. He, therefore, submits that due procedure as required was followed before taking disciplinary action.

05. Learned Standing Counsel has also produced record of the disciplinary action taken against the petitioner including report of the Enquiry Officer dated 14-08-2001.

06. On a perusal of the record, it is clear that enquiry was conducted and petitioner participated in the domestic enquiry. On consideration of the defence of the petitioner before the Enquiry officer, he has recorded finding of guilt. As such, it cannot be said that procedure as required was not followed before imposing major punishment. The principle laid down by the Supreme Court in **Kulwant Singh Gill's** case is applicable only if punishment of withholding of annual increment with cumulative effect is imposed without following due process, whereas in the instant case, due process was observed. It is also seen from the record and the material enclosed to the writ petition paper book that aggrieved by the order of the disciplinary authority, petitioner preferred appeal. However, appeal was rejected on the ground that said appeal was not filed within time. The petitioner filed review against said decision. The revisional authority considered the review on merits.

The contention of petitioner that he was not responsible in not accounting for ticket issue was rejected. The revisional authority noticed that such act of the petitioner would amount to gross negligence towards his duty. While upholding the disciplinary action, the revisional authority modified punishment to that of withholding of one increment with cumulative effect for a period of one year. Thus, the contention of learned counsel for the petitioner that due process was not followed is not correct. The appropriate punishment was imposed only after following due procedure. The charge leveled against the petitioner was proved with cogent material available on record. Therefore, I see no error in the decision arrived at by the disciplinary authority while imposing punishment as modified by the revisional authority, warranting interference.

07. Accordingly, the writ petition is dismissed. There shall be no order as to costs. Miscellaneous petitions pending, if any, in this writ petition shall stand closed.

03-07-2017
Nvl

P.NAVEEN RAO,J