

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SMT JUSTICE T.RAJANI

Writ Appeal No.751 of 2017

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

This appeal is preferred by the petitioner in W.P.No.5642 of 2011 aggrieved by the order passed by the Learned Single Judge dated 01.08.2016 to the extent he directed the disciplinary authority to impose a less severe penalty.

While recording his finding that the lapses on the part of the appellant-writ petitioner were minor, the Learned Single Judge, set aside the order of penalty, of reduction of basic pay by two stages in the time scale for a period of two years, and remitted the matter to the disciplinary authority to impose a less severe penalty.

We find no error in the order of the Learned Single Judge in remitting the matter to the disciplinary authority to impose a lesser penalty, as this Court, in the exercise of its jurisdiction under Article 226 of the Constitution of India, would not substitute its views for that of the disciplinary authority regarding the nature and extent of punishment to be imposed.

The apprehension of Sri V.Narasimha Goud, learned counsel for the appellant-writ petitioner, that the words "less severe penalty" in the order under appeal may be construed by the disciplinary authority as requiring a severe penalty to be imposed, even if it be lesser in rigor than that of the punishment imposed earlier on the appellant, is wholly unfounded.

The Learned Single Judge could not have, and did not, substitute his views for that of the disciplinary authority nor did he prescribe the nature and quantum of punishment to be imposed on the charged employee. The words "less severe penalty" would mean lesser than the punishment already imposed, and does not restrict the power of the

disciplinary authority to impose any lesser penalty, including minor penalties as stipulated in the Regulations. Suffice it to make it clear that the words “less severe penalty”, as referred to in the order under appeal, would not disable the disciplinary authority from imposing any lesser penalty, including any minor penalty, in accordance with law.

The Writ Appeal stands disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(T.RAJANI, J)

27th June, 2017
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