

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SMT JUSTICE T.RAJANI

WRIT APPEAL NO.606 OF 2009

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

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the learned Single Judge in WP.No.23274 of 2006 dated 10.11.2006.

The respondent herein invoked the jurisdiction of this Court questioning the action of the respondents therein in passing the impugned order dated 08.06.1992 imposing the punishment of deferment of annual increment for a period of one year with cumulative effect. It is not in dispute that the major penalty of stoppage of one increment with cumulative effect was imposed even without a departmental enquiry being conducted. As has been noted in the order under appeal, the respondent-writ petitioner submitted his reply, to the charge sheet issued to him, denying the charges levelled against him. In such circumstances, the Appellant-Corporation was obligated to conduct a departmental enquiry before imposing a major penalty. In the order under appeal, the learned Single Judge has denied the petitioner monetary benefits, for the interregnum period between the date on which the order of punishment was passed till the date on which the order in the Writ Petition was passed, and has converted the major penalty into a minor penalty of stoppage of one increment without cumulative effect.

The only contention urged before us by Sri A.Ravi Babu, learned Standing Counsel for TSRTC, is that inordinate delay and

laches of thirteen years necessitate the Writ Petition being dismissed in limini. He would rely on a Full Bench Judgment of this Court, in **P.V.Narayana v. A.P. State Road Transport Corporation, Rep. by its Managing Director, Musheerabad, Hyderabad and Others**¹, and an interlocutory order passed by a Division Bench of this Court in WAMP.No.1580 of 2016 in WA.No.593 of 2016 dated 25.07.2016.

The question which fell for consideration before the Full Bench, in **P.V. Narayana**¹, was whether an appeal or a revision preferred by an employee of the Corporation against the order imposing punishment, should be entertained notwithstanding the inordinate delay in preferring the appeal or revision. In the present case, the jurisdiction of this Court under Article 226 of the Constitution of India has been invoked, and not the remedy of a statutory appeal or revision. Reliance placed on the Full Bench Judgment in **P.V.Narayana**¹ is, therefore, of no avail.

Delay and laches is one of the facets to deny exercise of discretion. It is not an absolute impediment. There can be mitigating factors, continuity of cause action, etc. That apart, if the whole thing shocks the judicial conscience, then the Court should exercise the discretion, more so when no third party interest is involved. The doctrine of delay and laches is not a constitutional limitation when the situation shocks judicial conscience. (**Tukaram Kana Joshi v. M.I.D.C.**²). While inordinate delay and laches are factors which this Court would bear in mind in entertaining a Writ Petition under Article 226 of the Constitution, the learned Single Judge, on a consideration of the

¹ 2013(4) ALD 386 (FB)

² AIR 2013 SC 565

facts and circumstances of the case, has appropriately moulded the relief, and has denied the petitioner monetary benefits from the date of punishment till the writ petition was disposed of.

The interlocutory order of the Division Bench is not a precedent binding on a co-ordinate bench, as the said order has not attained finality, and is subject to the final orders which may be passed in the main Writ Appeal. The scope of interference in intra-Court appeal, under Clause 15 of the Letters Patent, is extremely limited; and, save patent illegality, no interference is called for. We find no such infirmity in the said order and see no reason, therefore, to interfere with the order under appeal.

The Writ Appeal fails and is, accordingly, dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand dismissed.



(RAMESH RANGANATHAN, ACJ)

(T.RAJANI, J)

12th July 2017
RRB