

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SMT JUSTICE T.RAJANI

Writ Appeal No.748 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 W.P.No.14080 of 2005 dated 22.11.2007. The respondent-writ petitioner invoked the jurisdiction of this Court to declare the order passed by the Depot Manager, APSRTC dated 19.11.2001 imposing on him the punishment of stoppage of two increments with cumulative effect as illegal and arbitrary.

In the order under appeal the Learned Single Judge observed that the order of punishment was passed without either furnishing a copy of the enquiry report to the respondent-writ petitioner or without giving him a show cause notice regarding imposition of punishment. On the ground that six years had elapsed, the Learned Single Judge directed that the respondent-writ petitioner shall not be entitled for any monetary benefit till the date of the order and converted the punishment from that of punishment of stoppage of increment with cumulative effect to that of stoppage of increment without cumulative effect.

While we find considerable force in the submission of Sri S.V.Ramana, learned Standing Counsel for the appellant-corporation, that no show cause notice need to be given with regards the proposed punishment, the fact remains that, in the light of the law declared by the Supreme Court in ***Managing Director, ECIL vs. B.Karunakaran***¹, the Corporation was obligated to furnish the employee a copy of the enquiry report and invite his objections thereto. This, admittedly, has not been done.

¹ AIR 1994 SC 1074

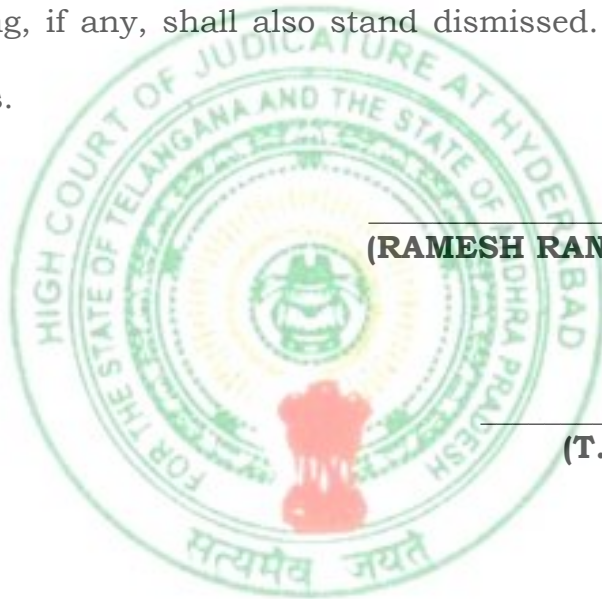
While the respondent-writ petitioner, no doubt, invoked the jurisdiction of this Court after 6 years, the Learned Single Judge has moulded the relief and denied him any monetary benefit till the date he passed the order in the writ petition and, instead of remanding the matter back, converted the order of punishment of stoppage of increment with cumulative effect to that of punishment of stoppage of increment without cumulative effect. In an intra-court appeal, under Clause 15 of the Letters Patent, interference is justified only if the order under appeal suffers from a patent illegality. We find no such infirmity in the order under appeal.

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

(RAMESH RANGANATHAN, ACJ)

(T.RAJANI, J)

13th July, 2017
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Date: 13.07.2017

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