

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

Writ Appeal No.869 of 2011

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.18044 of 2011 dated 27.07.2011. The appellants herein are the respondents in the writ petition. The respondent herein filed the writ petition to declare the action of the Depot Manager, Narsipatnam, Visakhapatnam District, in imposing punishment of deferment of annual increment for a period of 18 months with cumulative effect, without issuing any show cause notice, vide proceedings dated 03.04.2000 as illegal, unjust and arbitrary.

The said proceedings were sought to be subjected to challenge 11 years thereafter in the year 2011. The Learned Single Judge, while holding that a major penalty was imposed without issuing a show cause notice, set the impugned order aside. However, as there were laches on the part of the respondent-writ petitioner, the Learned Single Judge held that the respondent-writ petitioner was not entitled for any monetary benefits from the date of the impugned proceedings till the disposal of the writ petition. The Writ Petition was allowed, and the appellants herein were directed to fix the pay in accordance with regulations within a period of eight weeks from the date of receipt of a copy of the order.

While Sri S.V.Ramana, learned Standing Counsel for the appellant-Corporation, would contend that punishment was imposed for grave and serious charges relating to cash and ticket irregularities, the fact remains that, before a major penalty can be imposed, the statutory regulations require a charge memo to be issued and an enquiry to be caused. Admittedly, no such steps were taken, before a major penalty was imposed.

While Sri S.V.Ramana, learned Standing Counsel for the appellant-Corporation, would seek liberty to issue notice afresh, Sri S.M.Subhan, learned counsel for the respondent-writ petitioner, would submit that, since the dispute relates to the year 2000 and the respondent-writ petitioner has already been denied emoluments for the period from 2000 to 2011, quietus be given and the writ appeal be dismissed.

While this Court would not, ordinarily, in proceedings under Article 226 of the Constitution of India, sit in judgment over the decision of the competent authority whether or not to institute disciplinary proceedings against an employee for acts of misconduct, it cannot be lost sight of that these incidents relate to the year 2000, and the Learned Single Judge has denied the respondent-writ petitioner emoluments for a period of 11 years. Any decision, which the Corporation may take on this stale issue relating to the year 2000, shall only be after taking into consideration that the incident relates to the year 2000 and the respondent-writ petitioner has been denied salary for a period of 11 years.

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

(RAMESH RANGANATHAN, ACJ)

(T.RAJANI, J)

07th June, 2017
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Date: 07.06.2017

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