

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT APPEAL No.1710 of 2017

JUDGMENT: *(per VRS, J)*

The Andhra Pradesh State Road Transport Corporation has come up with the above writ appeal challenging an order of the learned single Judge, allowing the writ petition filed by the first respondent and setting aside in part, an award passed by the Industrial Tribunal.

2. Heard Mr.Rama Rao, learned counsel for the appellant, and Mr.Padmanabha Rao, learned counsel appearing for the first respondent.

3. The first respondent raised an industrial dispute with regard to his removal from service. The Industrial Tribunal passed an award on 05.09.2001 setting aside the order of termination and directing reinstatement with continuity of service without back wages and further directed to defer five annual increments with cumulative effect.

4. The Transport Corporation did not come up with a writ petition challenging the award. In other words, the Transport Corporation was not aggrieved by the Industrial Tribunal setting aside the order of removal from service and directing reinstatement.

5. However, the first respondent-workman came up with a writ petition challenging only one portion of the award of the

Industrial Tribunal whereby the penalty of deferment of five annual increments with cumulative effect was imposed. This writ petition was allowed by the learned single Judge, on the basis of a circular of the Corporation bearing No.PD-97/1988 dated 20.09.1988, as per which, multiple punishments cannot be imposed in a single case. Aggrieved by the said order, the Corporation is before us.

6. As we have pointed out earlier, the Corporation does not have and it has never had an objection to the reinstatement of the first respondent with continuity of service but without back wages and for imposition of the penalty of postponement of five annual increments with cumulative effect. Therefore, in a writ petition filed by the workman the only question that fell for consideration of the learned single Judge was whether imposition of the punishment of deferment of five annual increments with cumulative effect was proper or not. The learned Judge relied upon the very circular issued by the Corporation, to set aside that penalty alone.

7. It is true that the penalty of stoppage of increments for five years with cumulative effect cannot be said to be a multiple penalty. But, the learned Judge proceeded on the footing that denial of back wages itself was sufficient and that the postponement of five increments was actually an added penalty.

8. There are two views possible on the opinion rendered by the learned single Judge. One view is that the denial of back wages cannot be termed as penalty and hence the imposition of penalty of postponement of five increments with cumulative effect

cannot be treated as a multiple penalty. The second possible view is that the Industrial Tribunal did not indicate in its award as to why the back wages were being denied. If the Industrial Tribunal had applied the principle of 'no work no pay' to deny back wages, then the same need not be termed as a second penalty. Otherwise, there is a possible view that the same could be treated as a penalty. If it is treated as a penalty, the view taken by the learned Judge cannot be interfered with.

9. The peculiarity of the jurisdiction under Clause 15 of the Letters Patent is that wherever two views are possible and the learned Judge has chosen to take one view, the same shall not call for interference. Hence, the Writ Appeal is dismissed.

10. Consequently, miscellaneous petitions, if any, pending in the writ petition shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

M.GANGA RAO, J

13th December, 2017
sur