

**THE HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY**

WRIT APPEAL No.1691 of 2018

JUDGMENT: *(per the Hon'ble the Chief Justice Sri Thottathil B. Radhakrishnan)*

We have heard the learned counsel for the appellants and the learned counsel for the respondent in extenso.

2. This appeal is against the order by which the learned Single Judge interfered with the imposition of penalty by way of barring one increment with cumulative effect. Thereby, the learned Judge trimmed the penalty down to be one of barring of one increment without cumulative effect. This has been done on the limited premise that there was no hearing of the respondent-delinquent after the enquiry report was made and issued. We are of the view that adoption of such an approach may sometimes be counter productive to the very concept of disciplinary control and disciplinary proceedings, particularly, when it involves different types of allegations. We make this very cautious observation in the context of the fact that the factual foundation for the enquiry as against the respondent-delinquent was that he permitted certain materials to be carried in the bus without due authorization and received unlawful payments. On the whole, we are of the view that if at all the learned Single Judge had concluded that the imposition of the penalty as has been done be established required to be visited with at all to be done is by setting aside the penalty and remitting the matter to the Original Authority in the establishment for reconsideration as regards the penalty alone.

3. We, therefore, set aside the impugned order of the learned Single Judge and direct the Original Authority in the establishment (Disciplinary Authority) to reconsider the penalty imposed on the

respondent-delinquent, after giving him an opportunity for appearance, on the basis of the enquiry, which has already been concluded as far as the disciplinary authority is concerned. Since the matter relates to the late 1990s', the delinquent is directed to mark appearance in the office of the disciplinary authority by 12.00 Noon on 15.02.2019 so that the office can fix a date on which he would be hearing the matter. It is open to the establishment to permit the delinquent to place further representations or materials before that authority as may be sought for.

4. In the result, the Writ Appeal is allowed.

Pending miscellaneous petitions, if any, shall stand closed.

There shall be no order as to costs.

THOTTATHIL B. RADHAKRISHNAN, CJ

A.RAJASHEKER REDDY, J

Date: 25.01.2019

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