

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

WRIT APPEAL No.1756 of 2018

JUDGMENT: *(per the Hon'ble Sri Justice A. Rajasheker Reddy)*

This Writ Appeal is filed challenging the order dated 29.10.2018 passed by the learned Single Judge in Writ Petition No.25592 of 2006.

2. By the aforesaid order, the learned Single Judge while disposing of the Writ Petition, modified the proceedings dated 25.04.2006 issued by the first appellant herein with respect to ordering reinstatement of the respondent herein while imposing on him the punishment of reducing his pay by two (2) incremental stages with permanent effect, to that of reduction of his pay by two (2) incremental stages without cumulative effect.

3. Learned Standing Counsel for the Telangana State Road Transport Corporation appearing for the appellants submits that pursuant to the initiation of disciplinary proceedings against the respondent/writ petitioner, enquiry was conducted and that the first appellant after following due procedure and by taking a lenient view, set aside the order of removal and while ordering reinstatement of the respondent into service, imposed on him the punishment of reduction of two (2) incremental stages with permanent effect and accordingly, issued the proceedings impugned in the Writ Petition. He also submits that in view of the

decision of the Constitution Bench of the Honourable Supreme Court in **Managing Director, ECIL v. Karunakaran**¹, no notice is required to be issued before imposing major penalty but the learned Single Judge by placing reliance on the order dated 05.09.2005 passed in Writ Petition No.18299 of 2005, passed the order under appeal modifying the order impugned in the Writ Petition.

4. Learned counsel for the respondent/writ petitioner submits that the respondent was not issued any notice before imposing on him major penalty although the Regulations of TSRTC provide for issuance of a show cause notice to the delinquent before imposing major penalty.

5. A perusal of the material on record goes to show that initially, the third appellant passed the order of removal against the respondent/writ petitioner. However, challenging the said order, the respondent preferred an appeal, which in turn was rejected by the second appellant. Thereafter, the respondent filed a review petition before the first appellant, who in turn, took a lenient view by ordering his reinstatement into service while setting aside the order of removal but by imposing on him the punishment of reduction of pay by two (2) incremental stages with permanent effect.

¹ AIR 1993 SC 1074

6. The Honourable Supreme Court in **Karunakaran's** case (1 supra) held, no prior show cause notice is necessary prior to imposing major penalty, only inquiry report is to be served on delinquent officer for offering his explanation. A perusal of writ affidavit goes to show that no such plea that writ petitioner was not issued with notice before imposing penalty was raised and in the absence of same, relief could not have been granted. In view of the same, the aforementioned contention of the learned counsel for the respondent/writ petitioner cannot be accepted.

7. In view of law laid down by Apex Court in **Karunakaran's** case, grant of relief by learned Single Judge by placing reliance on order in W.P.No.18299 of 2005 is erroneous.

8. For the aforesaid reasons, the order under appeal is set aside and the Writ Appeal is allowed and accordingly Writ Petition is dismissed.

Pending miscellaneous petitions, if any, shall also stand disposed of. There shall be no order as to costs.

THOTTATHIL B. RADHAKRISHNAN, CJ

Date: 04.02.2019

A. RAJASHEKER REDDY, J