

HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF MARCH
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HONOURABLE SRI JUSTICE A.ABHISHEK REDDY

WRIT PETITION NOS: 22121 AND 22378 OF 2009

W.P.NO: 22121 OF 2009

Between:

A.S. Ramaswamy, S/o. Brahmaiah, Occ: Driver, aged 55 yrs, Srinagar Colony, Karimnagar.

...PETITIONER

AND

The Depot Manager, APSRTC, Karimnagar - I depot, Karimnagar, Karimnagar District.

...RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ or order, more in the nature of writ of Certiorari calling the records in ID No. 20 of 2006 dated: 23.06.2007 on the file of Hon'ble Industrial Tribunal cum Labour court, Godavarikhani and quash the same as illegal and arbitrary and further direct the respondents herein to restore the deferred two annual increments with all consequential benefits including arrears of pay.

W.P.NO: 22378 OF 2009

Between:

A.S. Ramaswamy, S/o. Brahmaiah, Occ: Driver, aged 55 yrs, Srinagar Colony, Karimnagar.

...PETITIONER

AND

The Depot Manager, A.P.S.R.T.C., Karimnagar-I depot, Karimnagar, Karimnagar District.

...RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ or order, more in the nature of Writ of Certiorari calling the records in ID No.21 of 2006 dated 23.6.2007 on the file of Hon'ble Industrial Tribunal cum Labour Court, Godavarikhani and quash the same as illegal and arbitrary and further direct the respondent herein to restore the deferred two annual increments with all consequential benefits including arrears of pay.

Counsel for the Petitioner in Both: SRI P.GOVINDA RAJULU

Counsel for the Respondent in Both: SRI GADDAM SRINIVAS, SC FOR TSRTC

The Court made the following: COMMON ORDER

THE HON'BLE SRI JUSTICE A. ABHISHEK REDDY

WRIT PETITION Nos.22121 and 22378 of 2009

COMMON ORDER:

Challenging the Awards dated 23.06.2007, passed in I.D.Nos.20 and 21 of 2006 by the learned Chairman-cum-Presiding Officer, Industrial Tribunal-cum-Labour Court, Godavarikhani, (for short, 'the Tribunal'), the petitioner has filed the present Writ Petitions.

The brief facts of the case of the petitioner read as follows:

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The petitioner was working as Driver in the respondent depot and while he was discharging his duties, he was issued a charge sheet dated 15.10.1996 on the allegation that on 13.09.1996, he was driven the bus bearing No.AP9Z 7469 and in lack of anticipation, dashed a private lorry as a result of which, the bus was damaged. That even though the explanation was submitted by the petitioner to the charge levelled against him, the respondent, without conducting any enquiry, has passed the order dated 19.11.1996 imposing a major punishment of deferment of annual increment for a period of

two years which shall have the effect on the future increments of the petitioner and also another order dated 09.11.1998 for recovery of Rs.1,000/- in 10 equal instalments. As against the said orders, the petitioner has preferred appeal and the Appellate Authority has rejected the appeal preferred by the petitioner vide proceedings dated 19.04.1997. Aggrieved by the said orders, the petitioner has filed an application before the Conciliation Officer and the Assistant Commissioner of Labour, Karimnagar. Thereafter, the matter was placed before the State Government, which in turn, has referred the matter to the Tribunal for adjudication. The Tribunal after considering the case of the petitioner, has passed the impugned Award dated 23.06.2007, dismissing I.D.No.20 of 2006. Against the said order dated 23.06.2007, the present Writ Petition has been filed.

W.P.No.22378 of 2009

While the petitioner was discharging his duties as Driver of the respondent Corporation, he was issued a charge sheet dated 04.03.1991 on the allegation that on 07.02.1991, he was driven the bus bearing No.AAZ 4821 and in lack of anticipation, dashed a private lorry as a result of which, two passengers of the bus sustained injuries and the bus was also damaged. That even

though the explanation was submitted by the petitioner to the charge levelled against him, the respondent, without conducting any enquiry, has passed the order dated 08.04.1991 imposing a major punishment of deferment of annual increment for a period of two years which shall have the effect on the future increments of the petitioner. As against the said order dated 08.04.1991, the petitioner has filed an application before the Conciliation Officer and the Assistant Commissioner of Labour, Karimnagar. Thereafter, the matter was placed before the State Government, which in turn, has referred the matter to the Tribunal for adjudication. The Tribunal after considering the case of the petitioner, has passed the impugned Award dated 23.06.2007 dismissing I.D.No.21 of 2006. Against the said order dated 23.06.2007, the present Writ Petition has been filed.

Learned counsel for the petitioner has stated that the respondent, without conducting any enquiry, has imposed major punishment of deferment of annual increment for a period of two years which shall have the effect on the future increments of the petitioner, vide orders dated 19.11.1996 and 08.04.1991. Learned counsel has contended that the impugned orders dated 23.06.2007 passed by the Tribunal are without any jurisdiction

and contrary to law. In support of his contention, the learned counsel has relied on the order dated 12.09.2019, passed by this Court in W.P.No.2053 of 2010, as confirmed by the Division Bench of this Court in W.A.No.416 of 2020 vide judgment dated 22.07.2022, and therefore, prayed to allow the present Writ Petitions.

The respondent has filed respective counters in the present Writ Petitions stating that due to the negligence of the petitioner, there were two accidents occurred, as result of which, damage was caused to the buses of the Corporation and the passengers were sustained injuries, for which, major punishment of deferment of annual increment for a period of two years was imposed by the two separate orders dated 19.11.1996 and 08.04.1991. That the Tribunal only after appreciation of the entire evidence and the material on record, has passed the impugned Awards dated 23.06.2007 dismissing I.D.Nos.20 and 21 of 2006 filed by the petitioner and thereby, prayed this Court to dismiss the present Writ Petitions.

As seen from the facts of the case of the petitioner, vide orders dated 19.11.1996 and 08.04.1991, the petitioner has been imposed the punishment of deferment of two annual

increments for a period of two years, which shall have effect on the future increments of him, which is admittedly a major punishment. At this juncture, it is pertinent to note that the Hon'ble Supreme Court in **Kulwant Singh Gill v. State of Punjab**¹ has held that stoppage of increments with cumulative effect must be construed to be a major penalty and cannot be imposed upon an employee without proper enquiry.

In W.P.No.2053 of 2010, this Court has relied on the **Kulwant Singh Gill's case (Supra)** and passed order dated 12.09.2019 holding that imposition of major punishment without conducting any enquiry is contrary to law and the said order has been upheld by the Division Bench of this Court in W.A.No.416 of 2020 vide judgment dated 22.07.2022.

Having regard to the above settled position of law, the impugned Awards dated 23.06.2007, passed in I.D.Nos.20 and 21 of 2006 by the Tribunal are hereby set aside and the present Writ Petitions are allowed and the respondent is directed to re-calculate the pay of the petitioner and pay the same along with consequential benefits, to which, the petitioner is entitled to.

¹ 1991 Supplement 1 SCC 504

Miscellaneous petitions, if any, pending in these Writ
Petitions, shall stand closed.

//TRUE COPY//

SD/- K. VENKAIAH
ASSISTANT REGISTRAR
SECTION OFFICER

To

1. The Depot Manager, TSRTC, Karimnagar - I depot, Karimnagar, Karimnagar District.
2. One CC to SRI P.GOVINDA RAJULU, Advocate [OPUC]
3. One CC to SRI GADDAM SRINIVAS, SC FOR TSRTC [OPUC]
4. Two CD Copies

PSK

GJP

HIGH COURT

DATED:23/03/2023

COMMON ORDER

WP.Nos.22121 AND 22378 of 2009



ALLOWING THE WRIT PETITIONS
WITHOUT COSTS.

(6)
MA
29/4/23