
(2022) 07 TEL CK 0070
In the Telangana High Court
Case No : Writ Appeal No. 1510 Of 2018

APSRTC Now TSRTC

APPELLANT

Vs

V. Narayana

RESPONDENT

Date of Decision : 27-07-2022

Acts Referred:

Citation : (2022) 07 TEL CK 0070

Hon'ble Judges : Ujjal Bhuyan, CJ; Surepalli Nanda, J

Bench : Division Bench

Advocate : B Mayur Reddy, G Ravi Mohan

Final Decision : Disposed Of

Judgement

1. Heard Mr. B. Mayur Reddy, learned Standing Counsel for the appellants Corporation and Mr. G. Ravi Mohan, learned counsel for the respondent.

2. Respondent is working as a conductor in the establishment of the appellants. On 28.04.1992, penalty of stoppage of two increments with cumulative effect was imposed on the respondent by the appellants. In 2007, respondent approached this Court by filing W.P.No.18422 of 2007 assailing the legality and validity of the order of penalty dated 28.04.1992. It was contended that though the penalty of stoppage of two increments with cumulative effect is a major penalty, no enquiry was conducted and without holding enquiry, impugned penalty was imposed. Reliance was placed on a decision of the Supreme Court in Kulwant Singh Gill v. State of Punjab 1991 Supp (1) SCC 504 to contend that there can be no imposition of major penalty without conducting enquiry.

3. Learned Single Judge by the order dated 17.09.2018, held that the case of the respondent is squarely covered by the decision of the Supreme Court in Kulwant Singh Gill's case (supra) and therefore, allowed the writ petition by quashing the order dated 28.04.1992. This order of the learned Single Judge has been questioned in appeal before us.

4. On 19.11.2018, this Court had admitted the appeal and suspended the order of the learned Single Judge.

5. Learned counsel for the appellants submits that there was delay of 15 years by the respondent in approaching the Court. When there is such an inordinate delay, learned Single Judge ought not to have entertained the writ petition. According to him, when there is such a delay, the decision rendered by the Supreme Court in Kulwant Singh Gill's case (supra) would not apply automatically. This aspect was gone into by a Full Bench of this Court in P.V.Narayana v. Andhra Pradesh State Road Transport Corporation, Hyderabad 2013 SCC Online AP 729.

6. The controversy in question was summed up in our order dated 11.07.2022 in the following manner:

"Respondent as the writ petitioner had challenged the order of penalty dated 28-04-1992 passed by the appellants. As per the order of penalty, pay of the respondent was reduced by two incremental stages for a period of two years having effect on his future increments.

The order of penalty was challenged by the respondent before this Court after fifteen years. Learned Single Judge, relying upon a decision of the Supreme Court in Kulwant Singh Gill v. State of Punjab (1991 Supp (1) SCC 504), held that punishment of stoppage of increments with cumulative effect is a major punishment, which cannot be imposed without conducting enquiry.

On appeal, this Court vide order dated 19.11.2018 observed that learned Single Judge did not consider the question of delay on the part of the respondent.

As already noticed above, there was delay of fifteen years in filing the related writ petition.

Question for consideration is whether the decision in Kulwant Singh Gill v. State of Punjab (supra) would automatically apply to a case based on similar facts notwithstanding inordinate delay?

Learned counsel for the appellants has placed before us a Full Bench decision of this Court in P.V.Narayana V. Andhra Pradesh State Road Transport Corporation, Hyderabad (2013 SCC Online AP 729), which has been followed by a Division Bench of this Court in Order dated 13.12.2021, in W.A.Nos.1660 of 2018 and 593 of 2016.

Learned counsel for the respondent prays for some more time to present contrary views.

On his request, list on 27.07.2022."

7. Though on the previous occasion learned counsel for the respondent was granted time to find out contrary views, he fairly submits today that he could not find any decision contrary to the decision of the Full Bench in P.V.Narayana's case

(supra).

8. Be that as it may, we are of the view that while delay on the part of the respondent in approaching the Court is a fact the delay being 15 years, it is also a fact that the writ petition filed by the respondent in the year 2007 could be finally decided after 11 long years in the year 2018. For whatever reason, proceedings before this Court had also taken substantial length of time to conclude. Thereafter the present appeal is in its fourth year. Therefore, in our view, a balance has to be struck. While certainly the respondent cannot claim any benefit for his own delay, he should also not be denied the benefit for delayed adjudication of his case.

9. To strike a balance, we are of the view that the penalty imposed on the respondent i.e., reduction of two incremental stages for a period of two years having effect on his future increments should be restricted till the time respondent filed the writ petition before this Court. We have been informed that the writ petition was filed by the respondent in August, 2007.

10. Therefore and in the light of the above, post 31.08.2007, decision of the learned Single Judge will have its effect. In other words, on and from 31.08.2007 the penalty imposed on the respondent vide the order dated 28.04.1992 would cease to have its effect.

11. This disposes of the writ appeal.

Miscellaneous applications pending, if any, shall stand closed. However, there shall be no order as to costs.