

**IN THE HIGH COURT OF JUDICATURE FOR THE STATE OF  
TELANGANA**

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**WRIT PETITION NO.21780 OF 2005**

Between:

The Chairman, Zilla Grandhalaya Samstha,  
Adilabad District, Adilabad and two others.

..... Petitioners

and

B.Ramulu s/o. Lasmanna,  
Aged about 35 years, occu:Librarian,  
Branch Library, Narnoor (V) & (M),  
Adilabad district.

.....Respondent

DATE OF JUDGMENT PRONOUNCED : 22.02.2022

**THE HON'BLE SRI JUSTICE P.NAVEEN RAO**  
**&**  
**THE HON'BLE DR. JUSTICE G.RADHA RANI**

1. Whether Reporters of Local Newspapers : No  
may be allowed to see the Judgments ?
2. Whether the copies of judgment may be : **Yes**  
marked to Law Reporters/Journals
3. Whether their Lordships wish to : No  
see the fair copy of the Judgment ?

**\* THE HON'BLE SRI JUSTICE P.NAVEEN RAO**  
**&**  
**THE HON'BLE DR. JUSTICE G.RADHA RANI**

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!Counsel for the petitioners : Government Pleader for Serrvices-I  
Representing Zilla Grandhalaya Samstha

Counsel for the Respondents: --

<Gist :

>Head Note:

? Cases referred:

1991 Supp (1) SCC 504  
(2014) 15 SCC 748

**HONOURABLE SRI JUSTICE P.NAVEEN RAO  
&  
HONOURABLE DR. JUSTICE G.RADHA RANI**

**WRIT PETITION NO.21780 OF 2005**

**ORDER:** *(per Hon'ble Sri Justice P.Naveen Rao)*

Heard learned Government Pleader for Services-I  
representing Zilla Grandhalaya Samstha for petitioners.

2. This writ petition is filed praying to grant the following relief:

“... to issue an appropriate writ or direction or an order more particularly in the nature of writ of certiorari calling for the records relating to the order dated 05.08.2005 in O.A.No.5507 of 2005 on the file of Andhra Pradesh Administrative Tribunal, Hyderabad and quash or set aside the same by holding as illegal, erroneous and contrary to law and to pass ....”.

3. On the allegation that respondent temporarily misappropriated the money entrusted to him for payment of electricity charges and fabricated the electricity receipts to show as if he paid the entire amount of ₹ 6858/-, whereas he only remitted ₹ 1800/-, he was issued with Memo calling upon him to explain as to why action should not be taken against him for temporarily misappropriating the money. In the explanation given by the respondent, he has accepted his guilt and sought to explain by saying that due to some urgent personal needs, he could not remit the entire amount towards electricity charges and agreed to repay

the amount. Considering the explanation and taking a lenient view, the disciplinary authority ordered to impose punishment of withholding of two annual increments with cumulative effect and to recover the amount due by order dated 15.07.1998. The appellate authority affirmed the said punishment.

4. The respondent challenged the decision of the disciplinary authority, as affirmed by the appellate authority in O.A.No.5507 of 2001, before the A.P.Administrative Tribunal at Hyderabad. Before the appellate authority and also before the Tribunal, the respondent contended that punishment of withholding of two annual increments with cumulative effect is a major punishment and such major punishment cannot be imposed without following due procedure. The appellate authority did not appreciate this contention while affirming punishment imposed by the disciplinary authority. The Tribunal accepted the contention of the respondent and set aside the punishment on the ground that no such punishment could have been imposed without following due procedure as required by Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 (Rules, 1991).

5. According to the learned Government Pleader representing Zilla Grandhalaya Samstha, the employees of Zilla Grandhalaya Samstha are governed by Separate Rules notified vide G.O.Ms.No.1708 Education Department, dated 12.09.1968, called

as “The Andhra Pradesh Local Library Authority Services (Classification, Control and Appeal) Rules, 1968” (Rules, 1968). According to the Rule (5) (iii) of the Rules 1968, withholding of increments or promotions is a minor punishment and according to Rule 8 of Rules 1968, it is not necessary to hold a detailed enquiry before imposing punishment of withholding of annual increments. He, therefore, contends that the Tribunal erred in not looking into the Special Rules, but relying on the CCA Rules of 1991, which have no application to the service of the respondent.

6. We have gone through the Rules formulated and notified vide G.O.Ms.No.1708, dated 12.09.1968. We agree with the contention of the learned Government Pleader for petitioners that CCA Rules, 1991 are not applicable when Special Rules operate the field.

7. No doubt Rule 5(iii) read with Rule 8 of the Rules, 1968 treats withholding of increments or promotions as minor punishment, but the impact of punishment has to be assessed to know whether it is a minor punishment or a major punishment. If it is a minor punishment, no detailed enquiry into the delinquency alleged is necessary. If the punishment proposed/imposed has adverse consequence on service conditions of employee, no such punishment can be imposed without following due procedure specified to impose major punishment. Withholding of annual increments can be two kinds, viz., without cumulative effect and

with cumulative effect. Imposing punishment of withholding of annual increment without cumulative effect would result in postponing the annual increment(s) due for that period and will be released after the period is over. Punishment of withholding of annual increments with cumulative effect has adverse consequence on the employee. The employee permanently forfeits the annual increments and, therefore, has recurring effect in the rest of his service and after his retirement.

8. In **Kulwant Singh Gill vs. State of Punjab**<sup>1</sup>, this aspect was considered by the Hon'ble Supreme Court. The employee was imposed punishment of withholding of two increments with cumulative effect. Before imposing said punishment, no enquiry was conducted. Only a show-cause notice was issued, explanation was called and thereon punishment was imposed. Rule 5(iv) of the Rules, 1968 considered by the Hon'ble Supreme Court reads as, '*withholding of increments of pay*'. The Hon'ble Supreme Court held,

***"4.....Withholding of increments of pay simpliciter without any hedge over it certainly comes within the meaning of Rule 5(iv) of the Rules. But when penalty was imposed withholding two increments i.e. for two years with cumulative effect, it would indisputably mean that the two increments earned by the employee was cut off as a measure of penalty for ever in his upward march of earning higher scale of pay. In other words the clock is put back to a lower stage in the time scale of pay and on expiry of two years the clock starts working from that stage***

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<sup>1</sup> 1991 Supp (1) SCC 504

*afresh. The insidious effect of the impugned order, by necessary implication, is that the appellant employee is reduced in his time scale by two places and it is in perpetuity during the rest of the tenure of his service with a direction that two years' increments would not be counted in his time scale of pay as a measure of penalty. The words are the skin to the language which if peeled off its true colour or its resultant effects would become apparent. When we broach the problem from this perspective the effect is as envisaged under Rule 5(v) of the Rules....."*

(emphasis supplied)

9. Same issue has come up for consideration in **Punjab State Electricity Board, now Punjab State Power Corporation Limited vs. Raj Kumar Goel**<sup>2</sup>. The Hon'ble Supreme Court held,

"9..... There can be no cavil over the proposition that when a punishment of stoppage of an increment with cumulative effect is imposed, it is a major punishment. ...."

10. Having regard to nature of punishment, though the Tribunal erred in relying on CCA Rules 1991 to set aside the punishment, we affirm the decision of the Tribunal on the issue of not following due procedure to impose a major punishment. However, the delinquency is accepted by the respondent, and what is alleged against the respondent is grave misconduct, therefore the Tribunal erred in not remitting the matter and leaving the issue at that stage only on the ground that while imposing major punishment, due procedure was not followed.

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<sup>2</sup> (2014) 15 SCC 748

11. The issue pertains to year 1998; O.A. was filed in the year 2001; O.A. was disposed of in the year 2005; and the writ petition of the year 2005 has come up for consideration in the year 2022. Having regard to this timeline, no useful purpose would be served by remitting the matter to the disciplinary authority at this stage. We therefore deem it proper to give quietus to the litigation.

12. In the facts of this case, we are of the opinion that if the punishment imposed against the respondent is modified to that of without cumulative effect, it would suffice the interest of both sides. Accordingly the punishment of withholding of two annual increments with cumulative effect vide order dated 15.07.1998 is modified to that of without cumulative effect. After the period of punishment is over, the increments be added to the respondent as per the procedure. However, respondent is not entitled to arrears of amounts due from the date of restoration till this date. Writ Petition is accordingly disposed of. Pending miscellaneous petitions if any shall stand closed.

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**JUSTICE P.NAVEEN RAO**

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**DR.JUSTICE G.RADHA RANI**

Date: 22.02.2022  
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