

**THE HON'BLE MR JUSTICE L.NARASIMHA REDDY**

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**WRIT PETITION NO : 25452 of 2005**

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**Dated: 30.11.2005**

Between:

I. B. Ali S/o. Ali Bin Salam  
R/o. H.No. 5-56, Osmania Majid,  
Asifabad, Adilabad District.

**..... PETITIONER**

AND

The Regional Manager, APSRTC,  
Adilabad Region, Adilabad District and others.

**.....RESPONDENTS**

**ORDER:**

The petitioner is employed as driver in APSRTC. He was issued a Charge Sheet, dated 14.10.1998, on the allegation that he assaulted one Sri T.Shankar, who is working as conductor in APSRTC, and that he was required to submit the explanation, as to why necessary disciplinary action shall not be taken against him. The petitioner submitted his explanation to the same. On a consideration of the same, the third respondent passed an order, dated 25.02.1999, imposing the penalty of withholding annual increment, for a period of two years, with cumulative effect. Aggrieved thereby, the petitioner preferred an appeal before the Appellate Authority

and the same was rejected. Hence, this writ petition.

The only point urged by the learned counsel for the petitioner is that the third respondent imposed the penalty of withholding annual increment, for a period of two years, with cumulative effect, without conducting departmental enquiry. He placed reliance upon the judgment of the Apex Court in ***KULWANTH SINGH GILL v. STATE OF PUNJAB***, and submits that withholding annual increment, is a major penalty, and it cannot be imposed, except by conducting departmental enquiry.

Learned Standing Counsel for the respondents, on the other hand, submits that the penalty imposed against the petitioner itself is minimal, if the lapse on his part is taken into account.

It is a matter of record that the third respondent imposed the penalty of withholding annual increment, for a period of two years, with cumulative effect, on the basis of the charges levelled against him. Though the charge sheet was issued to the petitioner, before the penalty was imposed, no departmental enquiry was conducted. In ***KULWANTH SINGH GILL's case*** (supra), the Supreme Court held that stoppage of increments, with cumulative effect, is a major penalty, and it cannot be imposed, except by conducting departmental enquiry. In view of the same, the impugned order cannot be sustained.

In the ordinary course of things, the impugned order needs to be set aside, leaving it open to the third respondent to pass fresh orders. To avoid further delay and complication in the matter, this Court is of the view that the impugned order can be treated, as the one for withholding annual increment, for a period of two years, without cumulative effect.

Hence, the writ petition is partly allowed, directing that the order, dated 25.02.1999, passed by the third respondent, shall be treated as the one for withholding the annual increment, for a period of two years, without cumulative effect, and that the petitioner shall not be entitled for any monetary benefits, up to the date of this order. There shall be no order as to costs.

