

THE HON'BLE Dr.JUSTICE K. MANMADHA RAO**WRIT PETITION No.1932 of 2011****ORDER:**

This Writ Petition is filed under Article 226 of the Constitution of India, seeking the following relief:

“....to issue a Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 3rd respondent in imposing the punishment of deferment of annual increments of the petitioner for a period of one year with cumulative effect vice Proc.No.02/95 (105)/98-Raydurg, Dt.14.12.1998, as highhanded and arbitrary action, contrary to well established principles of law, against to the principles of natural justice and as such liable to be set aside in the interest of justice by ordering to pay the arrears of differed wages from 14.12.1998 forthwith and pass such other orders.”

2. The brief facts of the case are that the petitioner was appointed as Conductor in the year 1984, while he was working in the 3rd respondent Depot, A Charge Sheet was issued against the petitioner on the allegation of Cash and ticket irregularities, for which he submitted explanation. Without considering the petitioner's explanation a penalty of deferment of annual increment for a period of one year with cumulative effect was imposed vide Proceedings dated 14.12.1998, which was confirmed by the Appellate Authority in the year 2000. While imposing the major penalty of deferment of annual increment for a period of one year with cumulative effect the Depot Manager failed to provide reasonable opportunity to the petitioner by conducting an enquiry. Stoppage of increments of an employee with cumulative effect is major penalty and the same cannot be imposed without conducting regular department enquiry

as contemplated under the APSRTC Employees' (CC&A) Regulations. Hence this writ petition is filed.

3. Heard Mr. S.M.Subhan, learned counsel for the petitioner and Sri N. Srihari, learned Standing Counsel for the respondents.

4. Learned Standing Counsel for the respondents would contend that the 3rd respondent has not satisfied with the explanation submitted by the petitioner, ordered to defer the Annual Increment for a period of one year, which shall have the effect on his future increments. As against the punishment order dated 06.01.1999, the petitioner has preferred an appeal before the Dy. Chief Traffic Manager, Anantapur, dated 23.11.2000 i.e after one year and ten months. The said appeal was rejected on the ground of limitation by giving opportunity to the petitioner to prefer review before the Regional Manager, Anantapur within two months, so far the petitioner failed to avail the opportunity. Hence the punishment imposed is proper. Hence, requested to dismiss the writ petition.

5. Learned Standing Counsel for the respondents placed reliance on the decision of this Court in the case of ***P.V.Narayana and Others Vs. A.P.State Road Transport Corporation, rep., by its Managing Director and others***¹ wherein it was held as follows:

“53.Therefore, burden lies on the workman, who has to establish that in spite of his best efforts and diligence he was prevented from approaching the authority within the period of limitation provided for or the Writ Court within a reasonable period of time. If the workman is not able to satisfactorily explain with cogent reasons for the delay he is not

¹ 2013(4) Andh LD 386

entitled to seek for condonation of the delay. It is true that the punishment imposed cannot be sustained in law because of the illegality crept in it in not conducting a prior enquiry. But, still the workman is under a statutory obligation to challenge the same within the time provided by the statutory rules or regulations or within a reasonable period of time before the Writ Court.....”.

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55.....It is true that in some cases where the delay is five years or so the Supreme Court inclined to condone the delay, but under different circumstances. When the fundamental rights are violated or where the delay is not directly attributable to the party seeking the relief or where the rights of the third parties are not intervened or in matters where seniority of employees is not finalized, the Court, would be justified to grant the relief; but not as a general rule of practice.

6. In view of the decision cited supra, as against the punishment order dated 06.01.1999, the petitioner has preferred an appeal before the Dy. Chief Traffic Manager, Anantapur, dated 23.11.2000 i.e after one year and ten months. The said appeal was rejected on the ground of limitation by giving opportunity to the petitioner to prefer review before the Regional Manager, Anantapur within two months, but the petitioner failed to avail the opportunity. Further the petitioner also filed this Writ Petition in the year 2011, there is also further delay. Therefore, this court finds that the petitioner has failed to follow the procedure in approaching the Authority to redress his grievance and belatedly filed appeal before the Appellate and no review also filed. Late he moved this Court to redress his grievance in the writ petition, which is unsustainable under law and as per decision of this Court in the **P.V.Narayana's** case as referred above.

7. In appropriate cases, where there is delay and the same has properly been explained with cogent reasons, Court may condone the delay as an exception to meet the ends of justice, But, it would be a sound and wise exercise of discretion for the Courts to refuse to exercise their extraordinary power under Article 226 in the case of the petitioner, who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the Court leisurely to put forward stale claims and try to unsettle settled matters. Further the Courts have evolved rules of self-imposed restraints or fetters where this Court may not enquire into belated or stale claim and deny relief to a party if he is found guilty of latches. One who is tardy, not vigilant and does not seek intervention of the Court within a reasonable time from the date of cause of action or alleged violation of the constitutional, legal or other right, is not entitled to relief under Article 226 of the Constitution of India.

8. Having regard to the facts and circumstances of the case, on perusal of the record and considering the submissions of learned counsel, this Court feels that it is not a fit case to grant relief as claimed in the writ petition and same is liable to be dismissed.

9. Accordingly, the writ petition is dismissed. No costs.

As a sequel, miscellaneous applications pending, if any, shall also stand closed.

DR.JUSTICE K. MANMADHA RAO

Date: 30.04.2022.

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