

THE HON'BLE SRI JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT APPEAL No.546 OF 2006

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JUDGMENT: *(Per Hon'ble Sri Justice A. Ramalingeswara Rao)*

This Writ Appeal is directed against the order 21.09.2005 in W.P.No.10341 of 2005.

The Writ Petition was filed by the workman/driver challenging the proceedings, dated 20.12.2004, passed by the Regional Manager, APSRTC.

The facts of the case are that while the petitioner was driving a bus on 18.09.2003 on route 226A from Secunderabad to Pantancheru, near HUDA Colony Cross Roads, Chandanagar, at about 20:45 hours, he ran over a pedestrian, who was crossing the road from right side to left side, by rear right tyres and caused his death on the spot. He was initially kept under suspension and was issued a charge sheet on 10.10.2003. The petitioner submitted his explanation. The Depot Manager, BHEL Depot, the 2nd respondent, felt that there was need to conduct enquiry into the charge and accordingly appointed the Chief Inspector, Sanathnagar Division, as Enquiry Officer. The Enquiry Officer conducted the enquiry and submitted his report on 29.11.2003. In the enquiry report, he felt that the petitioner was guilty of the charge. The petitioner was asked to submit his objections to the said report. After perusing the enquiry report and objections filed by the petitioner, the Depot Manager felt that the punishment of removal from service was fit and proper to be

imposed on the petitioner and accordingly issued a show cause notice. After considering the explanation and evidence on record, the Depot Manager, BHEL Depot, confirmed the proposed punishment of removal from service and issued final orders. Challenging the same, the petitioner preferred an appeal before the Divisional Manager, Sanathnagar Division, on 24.01.2004 and the same was rejected by him. Thereafter, the petitioner submitted a representation to the Regional Manager, Secunderabad, the 1st respondent passed orders on 20.12.2004 taking a lenient view by setting aside the orders of the Depot Manager, BHEL Depot, and ordered reinstatement of the petitioner into service with seven terms and conditions, which are as follows:

- “1) the petitioner shall be reinstated into service as Driver duly reducing his pay by two incremental stages for a period of two years, which shall have the effect of postponement of his future increment.
- 2) He should pay fresh Security Deposit and produce valid Driving Licence.
- 3) The period from the date of removal till date of his reporting from duty at the Unit posted on reinstatement shall be treated as NOT ON DUTY for all purposes, viz., PF, Gratuity, Leave, Increment, Promotion, Seniority etc.
- 4) He should pay back all dues viz., Festival Advance, short remittance of bus cash if any, etc., and produce NO DUE CERTIFICATE from the Depot Manager, BHEL Depot.
- 5) He should be taken on duty after paying the SBT, SRBS subscriptions along with interest as decided by the Secretaries – SBT/SRBS, if he happens to be a member.
- 6) He shall be directed to the Principal, Zonal Staff Training College at HPT for 15 days driver training.
- 7) He should give in writing that the above terms and conditions are acceptable to him.”

The said order was challenged before the learned Single

Judge and the learned Single Judge by his order, dated 21.09.2005, modified the order, dated 20.12.2004, of the

1st respondent with the following observations:

- “a) The period from the date of removal till the date of reporting to duty shall not be treated as ‘not on duty’ for the purpose of Gratuity, Leave, Increment, Promotion, Seniority etc.
- b) The petitioner shall not be required to pay the dues, if any, of festival advance etc., and that the same shall be deducted from the future salary of the petitioner.
- c) The dues of subscription, if any, for any schemes introduced by the Corporation to which the petitioner is a member shall also be recovered from the future salary of the petitioner together with interest, if any, in accordance with the relevant rules, and
- d) In all other respects, the order passed by the 1st respondent shall hold good.”

In view of the nature of the order passed by the learned Single Judge, we do not see any error in the said order and accordingly, we dismiss the Writ Appeal confirming the order of the learned Single Judge. No costs.

The Miscellaneous Petitions filed in this Writ Appeal shall stand disposed of.

DILIP B. BHOSALE, J

A. RAMALINGESWARA RAO, J

09.03.2015

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