

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.2977 OF 2006

ORDER:

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Heard Sri N.Vasudeva Reddy, learned counsel for the petitioners and perused the records.

The present Writ Petition came to be filed aggrieved by the award dated 22.06.2004 passed in I.D.No.89 of 2001 on the file of Labour Court – Hyderabad, wherein and whereunder the labour Court, while dismissing the I.D., held that the removal from services shall be treated as compulsory retirement from service and that the workman shall be entitled for all retiral benefits. Challenging the same, the Corporation filed the present Writ Petition. It is also brought to the notice of the Court that no Writ Petition is filed by the employee.

For the sake of convenience, the parties herein are referred to as arrayed in I.D.No.89 of 2001.

A perusal of the order under challenge would show that the petitioner was appointed as driver on 26.03.1991 on daily wage basis which was regularized on 01.04.1992. On 13.06.1992, while he was operating the bus bearing Regn.No.AAZ 9979 on route Yadigirigutta-parigi, his bus came into contact with the side mirror of another bus which was coming in opposite direction. It is stated that while negotiating a left turn towards tank bund near Raigiri, the bus got in touch with the mirror of the opposite bus as a result of which the driver lost control and the bus rolled down resulting in death of one male passenger and causing injuries to 34 passengers in the bus. On receiving information, the traffic inspector of Yadagirigutta depot visited the spot and shifted the injured to Mahatma Gandhi Hospital, Secunderabad. He prepared a rough sketch of the place of accident and obtained statements of the petitioner, passengers, service driver and conductor of the opposite bus. A case in Crime No.42 of 1992 came to be registered against the petitioner for the offences punishable under Sections 304-A, 337 and 338 of IPC. In the preliminary enquiry, a charge came to be framed against the petitioner for alleged misconduct under regulation 28 (ix)(a)(b) and (xxxii) of APSRTC Employees Conduct Regulations, 1963. The preliminary authority found that the petitioner was

responsible for causing accident as he drove the bus in a rash and negligent manner at the turning point of the tank bund. Accordingly, the respondent-depot manager suspended the petitioner from service on 30.06.1992 and issued a charge sheet on the same day. An explanation to the said charge sheet was submitted by the petitioner. Not being satisfied with the explanation, the Depot Manager (PW1) nominated an enquiry officer to conduct enquiry and submit a report. During the time of enquiry, the statement of two passengers, service conductor and driver of the opposite bus were recorded in the presence of the petitioner and he also offered his statement. The enquiry officer submitted his report before the Depot Manager, who issued show cause notice dated 25.01.1993, proposing the punishment of removal from service. On receipt of the show cause notice, the petitioner made representation dated 05.02.1993 requesting to furnish copies of documents. As the petitioner failed to submit any explanation in writing, the Depot Manager removed him from service on 26.02.1993. The appeal and review filed before the Divisional Manager and Regional Manager were rejected on 29.07.1993 and 28.11.1993 respectively. Thereafter, ID No.89 of 2001 came to be filed by the petitioner. No oral evidence was adduced on either sides, but however, Exs.W1 to W6 came to be marked on behalf of the petitioner/workman and Exs.M1 and M29 on behalf of the Corporation. After analyzing evidence available on record, the labour Court found that the petitioner was responsible for the accident and directed removal of the petitioner from service to be treated as compulsory retirement with all retiral benefits. Challenging the same, the present Writ Petition came to be filed.

While admitting the Writ Petition, no interim order was passed by this Court. Therefore the petitioner's (first respondent herein) removal from service was treated as compulsory retirement, and received all the retiral benefits which he is entitled to. As seen from the records, a criminal case which has been registered against the petitioner (first respondent herein), ended in acquittal.

For the aforesaid circumstances, the discretion exercised by the labour Court in treating removal of the petitioner (first respondent herein) from service as compulsory retirement from service thereby enabling him of all retiral benefits warrants no interference.

Accordingly, the Writ Petition is dismissed. No costs.

Consequently, miscellaneous petitions, if any, pending in this Writ Petition

shall stand closed.

JUSTICE C. PRAVEEN KUMAR

26.11.2015

vhb