

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

WRIT APPEAL No.1303 of 2006

JUDGMENT: (per Hon'ble Sri Justice Dilip B.Bhosale)

This writ appeal is directed against the order dated 16.10.2006 dismissing writ petition No.18424 of 2006 filed by the appellant. In the writ petition, the appellant sought to challenge the award dated 21.11.2005 passed by the Labour Court partly, whereby his claim for past service benefits and wages, had been rejected.

The petitioner was working as driver with the respondent-Corporation. He was charge sheeted on 20.02.2004 and held guilty of the charge that he did not take preventive/precautionary measure to avoid accident in which two persons lost their lives. The Enquiry Officer held the petitioner guilty and on the basis thereof he was removed from service. The order of removal dated 05.08.2004 was challenged in I.D.No.81 of 2004 before Labour Court. The Labour Court set aside the order of removal and directed the respondent-Corporation to reinstate the petitioner into service as a fresh driver without back wages and without continuity of service. That order was challenged in the writ petition. It has come on record that the appellant was not solely responsible for the accident. The allegation proved against him was that he did not take any precaution/preventive measure to avoid the accident. In view thereof, though we do not find any justifiable reason to interfere with the order passed by learned single Judge, having regard to the fact that hardly 1½ years service of the appellant is left and having considered that except the incident in question, he was not involved or indulged in any mis-conduct, certain suggestions to learned counsel for the parties were made, which they instantly accepted and agreed for disposal of the appeal by the following order:

“The order of the Labour Court directing the respondent-

Corporation to reinstate the appellant into service as fresh driver without back wages and without continuity of service is modified to read that the appellant shall be entitled for counting the period of service rendered prior to his removal on 05.08.2004 so as to extend only retiral benefits.”

With these observations, the Writ Appeal is disposed of. No order as to costs.

Miscellaneous petitions pending in the appeal, if any, also stand disposed of.

Dilip B.Bhosale, J

A.Ramalingeswara Rao, J

2nd February, 2015.
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