

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

**TUESDAY, THE THIRD DAY OF NOVEMBER TWO THOUSAND AND
FIFTEEN**

Present

HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION No.2284 of 2012

Between:

D. Veeru,

S/o. Bikari, Aged about 50 years,

Occ: Ex Driver, APSRTC,

R/o. Venkatayapalem Post,

Khammam District.

.. Petitioner

AND

Industrial Tribunal cum Labour Court,

Warangal, Warangal District & 3 others

.. Respondents

The Court made the following:

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ORDER:

The petitioner was engaged initially as a 'badili driver' in the year 1987 and subsequently in the year 1989, his services were regularized. In the year 1994, while he was operating the Khammam-Karepally service, the vehicle met with an accident, which resulted in the death of a person travelling on a two wheeler. Criminal proceedings were initiated against the petitioner and in C.C.No.345 of 1995, on the filed of Additional Judicial First Class Magistrate, Khammam, the petitioner was convicted and sentenced to undergo simple imprisonment for two years and a fine of Rs.3,000/- was also imposed. Aggrieved by the order of conviction, the petitioner filed Criminal Appeal No.123 of 1995 before the Sessions Court, Khammam, and the Sessions Court, Khammam, modified the sentence against the petitioner to one month simple imprisonment instead of six months. The same was confirmed by this Court in C.R.P.No.1697 of 1997.

2. Departmental enquiry was conducted against the petitioner, which resulted in removal from service, which was confirmed in appeal. Aggrieved thereby, the petitioner filed I.D.No.41 of 2003, on the file of Industrial Tribunal-cum-Labour Court at Warangal. The Industrial Tribunal-cum-Labour Court, after considering the evidence on record, passed an award on 07.03.2006 by setting aside the removal order directing the respondent Corporation to reinstate the petitioner into service with continuity of service, but without back wages.

3. The award passed by the Industrial Tribunal-cum-Labour Court was implemented and the petitioner was reinstated into service. After the reinstatement into service, the petitioner filed this writ petition challenging the award passed by the Industrial Tribunal-cum-Labour Court to the extent of denial of the back wages.

4. Heard learned counsel for the petitioner, learned Government Pleader for Labour for the 1st respondent and Sri K. Srinivas Rao, learned Standing Counsel for respondents 2 to 4.

5. Learned counsel for the petitioner made extensive submissions on the entitlement of the petitioner for back wages. Learned counsel submits that once the Industrial Tribunal-cum-Labour Court has held that the petitioner's removal from service is illegal and the Industrial Tribunal-cum-Labour Court, having set aside the order of removal and having granted continuity of service, ought to have granted the back wages also for a period of out of employment and the Industrial Tribunal-cum-Labour Court erred in not granting the back wages.

6. Learned Standing Counsel for the respondent Corporation contends that the misconduct committed by the petitioner causing fatal accident is serious in nature and, therefore, punishment was validly imposed. In fact the petitioner is not entitled to be reinstated having committed such grave accident resulting in death of a person and the petitioner was also convicted by the concerned Court

and, therefore, the question of granting the back wages does not arise and there is no merit in the claim made by the petitioner.

7. The relevant facts are not in dispute. The vehicle driven by the petitioner met with an accident, which resulted in death of a person. The rash and negligent driving of the petitioner was proved in the criminal proceedings and he was convicted and sentenced. The conviction of the petitioner is affirmed by the appellate Court and this Court, but the sentence was only modified by the appellate Court. The Industrial Tribunal-cum-Labour Court, having considered the evidence on record and the facts leading to the conviction of the petitioner and by assigning due reasons, rejected the request of the petitioner for grant of back wages.

8. Having regard to the fact that the petitioner was found to be negligent in driving and having been convicted by the criminal Court, the petitioner ought to have been satisfied with the relief granted by the Industrial Tribunal-cum-Labour Court in setting aside the order of removal from service.

9. Merely because the order of removal is set aside cannot automatically result in grant of consequential benefits in the form of back wages. Admittedly, the petitioner did not work during the period prior to reinstatement into service as a consequence to the award passed by the Industrial Tribunal-cum-Labour Court. The petitioner, for his own negligence, was involved in a criminal case and was ultimately convicted by the criminal Court and was sentenced. The Industrial Tribunal-cum-Labour Court applied its mind before denying the back wages. Grant of back wages is a discretionary relief and the Court below has exercised its discretion to deny the back wages on assessing the facts of the case. Therefore, in the facts of this case, it cannot be said that the Industrial Tribunal-cum-Labour Court erred in not granting the back wages. In the facts of this case, there is no justification to claim back wages. Further more, the award was passed in the year 2006. The petitioner took his own sweet time to file this writ petition, in the year 2012, and no explanation is forthcoming in the affidavit filed in support of the writ petition for the delay in invoking the jurisdiction of

this Court, more particularly with reference to the claim of back wages denied by the Industrial Tribunal-cum-Labour Court.

10. Power of judicial review against the awards passed by the Industrial Tribunal-cum-Labour Court is limited. The Court cannot re-appreciate the evidence on record and cannot decide the matter as an appellate authority. This Court cannot substitute its opinion when sound discretion is exercised by the Labour Court. More over, in the facts of this case, the claim of the petitioner for grant of back wages merits no consideration and, therefore, the writ petition is liable to be dismissed.

11. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

P.NAVEEN RAO, J

Date: 3rd November, 2015

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HON'BLE SRI JUSTICE P.NAVEEN RAO

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