

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.5178 of 2003

ORDER:

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This writ petition is filed to quash the award dated 15-05-2002 in I.D.No.13 of 2002 on the file of Chairman-Cum-Labour Court, Godavarikhani, insofar as not granting any relief to the petitioner as illegal and arbitrary.

The case of the petitioner is that he was appointed as Conductor in the year 1988. While he was performing duties on bus bearing No.2011 on 30-05-1996 at about 8 PM at Tonevalli Ex-road, when the bus was going to Bejjur, several passengers boarded the bus. On boarding the passengers, the driver of the bus started the bus, but a passenger tried to board the moving bus and fell down. Due to which, he succumbed to injuries. Though there is no fault on the part of the petitioner, he was suspended vide proceedings dated 03-07-1996 by the 3rd respondent. Basing on the same, charge sheet was issued on 26-06-1996. Though, the petitioner filed his explanation, without considering the same, the 4th respondent issued proceedings dated 31-10-1996 imposing punishment on the petitioner by reducing pay by two incremental stages permanently by treating the period of suspension as not on duty for all purposes. An appeal was filed before the appellate authority and the same was dismissed. On that Review petition was filed before the 2nd respondent. The 2nd respondent set aside the punishment imposed on 31-10-1996 and modified to the extent that the petitioner pay was reduced by one incremental stages permanently besides treating the period of suspension as not on duty for all purposes. As such, the petitioner raised an industrial dispute before the Assistant Commissioner of Labour and as there was no amicable settlement, the matter was referred to the 1st respondent and the same was numbered in I.D.No.13 of 2002. Wherein, the Labour through its award

dated 15-05-2002 dismissed the claim of the petitioner. Aggrieved by the same, the present writ petition is filed.

Learned counsel for the petitioner says that though punishment reducing the pay with cumulative effect is a major penalty, no enquiry was conducted. He also submits that there was charge against the driver of the vehicle also and punishment was imposed and the Labour Court set aside the same.

Heard Learned Standing Counsel for the respondents, who submits that the Labour Court has not interfered with the punishment, since the petitioner caused the death of one passenger by pushing her from the bus. The charge is very serious and punishment is too meagre and as such, no interferences is called for.

It was never the case of the petitioner before the Labour Court that the impugned punishment has been imposed without conducting enquiry against him. If the petitioner raised such plea, the same could have been considered by the Labour Court. Without raising said plea before the Labour Court, the petitioner cannot for the first time raise before this Court. The Labour Court after analyzing the evidence held that the charge is very serious and confirmed the punishment. The Labour Court also referred to the statement of eye-witness, who stated that he is the father of the deceased. He also stated that the conductor of the bus pushed his wife from the running bus. His wife fell down along with his daughter. His wife and his daughter received injuries. While going to hospital, his daughter died. His wife was admitted in the Government Hospital, Asifabad. Besides this evidence, the Labour Court has also considered the other evidence and confirmed the findings of fact arrived at by the Enquiry Officer during preliminary enquiry. The petitioner without raising above pleas before the Labour Court cannot found fault with the award passed by it. As contended by the learned Standing Counsel, punishment imposed on the petitioner is on lower side and very lenient view was taken by the authorities, though the petitioner caused death of one passenger. By taking above

facts into account, this Court is not inclined to exercise its extraordinary jurisdiction under Article 226 of Constitution of India and grant relief to the petitioner.

In view of the above discussion, the finding of the Labour Court warrants no interference and I see no merit in the writ petition.

Therefore, the Writ Petition is dismissed. As a sequel thereto, miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed.

A.RAJASHEKER REDDY,J

09-10-2015
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