

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

Writ Petition No. 5576 OF 2002

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Between:

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T.Vaddikasulu.Petitioner

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And

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The Depot Manager,

APSRTC, Bhimavaram Depot,

West Godavari District and another. Respondents

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Date of Judgment pronounced: 30.07.2015

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Submitted for Approval:

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The Hon'ble Sri Justice A.Rajasheker Reddy

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1. Whether Reporters of Local newspapers

May be allowed to see the Judgments? Yes/No

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2. Whether the copies of judgment may be

Marked to Law Reporters/Journals Yes/No

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3. Whether His Lordship wish to see the fair

Copy of the Judgment? Yes/No

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

Writ Petition No. 5576 of 2002

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ORDER :

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It is the case of the petitioner that while he was working as driver in the first respondent Corporation, he went on duty to Thirupathi on 09.06.1991 and he was issued with a charge sheet dated 25.06.2001 under Clause (ix) (b) of Regulation 28 of A.P.S.R.T.C

Employees (Conduct) Regulations 1963 alleging that he drove the vehicle rashly and caused accident at 6.40 hours on the same day. Basing on the preliminary enquiry report dated 20.06.1991, the first respondent kept him under suspension pending departmental enquiry. It is stated that the Enquiry Officer has not followed the principles of natural justice while submitting his report, basing on which the first respondent passed final order-cum-show cause notice dated 13.01.1992 imposing major punishment with-holding one annual grade increment for a period of two orders and ordering recovery of Rs.1,000/- towards cost of damages caused to the bus. The petitioner filed appeal on 20.01.1992. The first respondent passed final orders dated 13.02.1992 confirming earlier order dated 13.01.1992 and the same was confirmed by the Divisional Manager and Area Manager by Order dated 17.07.1993 and 28.12.1993. Thereafter, the petitioner filed I.D.No.149 of 1998 against imposition of said punishment, wherein the Labour Court passed order on 31.05.2001 confirming the major punishment postponing of annual grade increment for a period of two years with cumulative effect and set aside the recovery of Rs.1,000/- towards damages to the bus. Aggrieved by the confirmation of the major penalty by the 2nd respondent, this present writ petition is filed.

2. Counter affidavit is filed by the first respondent denying the averments in the affidavit filed in support of the writ petition stating that the petitioner was on duty with the vehicle No.AP 9Z 2827 of Bhimavaram Depot and has caused the fatal accident on 09.06.1991 on the route Bhimavaram-Tirupati and caused death of a girl by name J.Naga Lakshmi Prasanna aged about 4 ½ years. the Assistant Manager (T), Bhimavaram conducted preliminary enquiry and submitted a report dated 20.06.1991 wherein it was found that the petitioner was responsible for the cause of the accident. The Accident Enquiry Committee came to the conclusion that the petitioner failed to

avert the accident, was responsible for the accident and that he was placed under suspension pending detailed enquiry and disciplinary action initiated against him. The petitioner was issued with charge sheet dated 25.06.1991, for which, explanation was filed on 16.07.1991. The Enquiry Officer conducted enquiry and filed his report stating that the charge held against the petitioner as proved. Basing on the report of the Enquiry Officer, a show-cause notice bearing No.E1/02/161(3)/91-BVRM dated 13.01.1992 was issued to the petitioner postponing his annual increment when next falls due for a period of two years which shall have the effect of postponing his future increments, calling upon to show cause notice was to why the amount of Rs.1,000/- towards maximum permissible cost of damages should not be recovered from his salary besides treating the suspension period as 'not on duty' for all purposes. In response to the same, the petitioner submitted explanation on 20.01.1992, which was not convincing. A final order dated 13.02.1992 was issued. Aggrieved by the same, the petitioner filed appeal before the appellate authority, which was rejected. Again the petitioner preferred review petition to the erstwhile Regional Manager, Rajahmundry, which was also rejected after thorough examination. Subsequently, petitioner filed I.D.No.149/98 before the Labour Court, Guntur and the Labour Court, by Award dated 31.05.2001 held that the action of the Depot Manager, Bhimavaram is justified in withholding the annual increment for a period of two years with cumulative effect and treating the period of suspension as 'not on duty' for all purposes and he has not justified in ordering the recovery of Rs.1,000/- towards the maximum cost of damages caused to the service vehicle and the workman is entitled for refund of the said amount.

3. Heard Sri P.Govinda Rajulu, learned counsel for the petitioner and Sri S.V.Ramana, learned Standing Counsel for the first respondent.

4. Learned counsel for the petitioner submits that the Criminal Court has acquitted the petitioner on similar grounds, as such, the Labour Court should have set aside the major punishment of withholding of the annual increment for a period of two years with cumulative effect.

5. It is to be seen that the Labour Court has considered the issue elaborately and set aside the order of recovery of Rs.1,000/- towards cost of damages to the bus. But as far as major punishment of postponing of one annual grade increment for a period of two years is concerned, the Labour Court has confirmed the same on the ground that the petitioner has not produced copy of the judgment in the Criminal Court, wherein the petitioner is alleged to have been acquitted. Therefore, it cannot be said that the Award of the Labour Court is erroneous. Moreover, the petitioner has not produced the copy of the judgment of Criminal Court, wherein the petitioner alleged to have been acquitted. However, it is not known on what ground the Criminal Court has acquitted the petitioner. The accident committed by the petitioner lead to killing of a girl who is aged about 4 ½ years.

In view of the above facts and circumstances, this Court is not inclined to interfere with the punishment confirmed by the Labour Court by exercising the power of judicial review under Article 226 of the Constitution of India by re-appreciating the evidence. The writ petition is devoid of merits.

Accordingly, this writ petition is dismissed. There shall be no order as to costs. As a sequel thereto, miscellaneous applications, if any pending in this Writ Petition, shall stand dismissed.

A.RAJASHEKER REDDY, J

30.07.2015.
KVS

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

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W.P. No.5576 OF 2002

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Date: 30-07-2015

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