

HONB'E SRI JUSTICE CHALLA KONDANDA RAM

WRIT PETITION No.2107 OF 2009

ORDER:

The writ petition is filed challenging the award dated 11.07.2006, passed by the 2nd respondent-Industrial Tribunal-cum-Labour Court (for short, "the Tribunal").

It is the case of the petitioner-Corporation that the workman K.S. Reddi was attached to Kurnool-II depot during the material time. While performing duty as driver on 23.05.1999 on HI-Tech Bus No.A11z 5695 on route Nellore to Kurnool driven the vehicle in rash and negligent manner and caused major accident. The workman failed to drive the bus cautiously and the vehicle went to the extreme right side of the road, traversed a distance of 113 feet into the fields before coming to halt. The Hi-tech vehicle was damaged extensively. The vehicle got stuck-up in the fields and passengers were put to lot of inconvenience, on account of detention of the bus. Thereafter, a preliminary enquiry was conducted and a prima facie case against the workman was established and basing on the preliminary enquiry report, the workman was suspended and charge sheet was issued on 7.6.1999 with the following charge:

"For having driven the vehicle AP 10Z 5695 in a most rash and negligent manner, with lack of anticipation at high speed, while plying on route Nellore – Kurnool as a result of which the vehicle went to the extreme right side of the road near B. Thandrapadu village, and traversed a distance of 113 feet in the fields before coming to halt at about 5.30 hours on 23.5.1999, causing extensive damages to the service bus, which tentamounts to serious misconduct under Reg.28(ix)(a) of APSRTC Employees (Conduct) Reg. 1963."

Thereafter an enquiry officer was appointed, conducted the enquiry and submitted his report on 21.8.1999 holding the charge as proved basing on the evidence available on record. Thereafter, a show cause notice dated 21.9.1999 was issued and the workman submitted his explanation on 29.9.1999. Finally, the punishment of stoppage of annual increment for a period of two years with cumulative effect and Rs.1,000/- towards damage charges was imposed vide the proceedings dated 11.01.2001 and the appeal and the review petitions filed by the workman were rejected confirming the punishment. Aggrieved thereby, a reference to the Tribunal was made and the Tribunal after its elaborate enquiry set aside the punishment imposed by the petitioner-Corporation in its proceedings dated 11.01.2001 as confirmed by the Deputy Chief Traffic Manager and Regional Manager and also holding that the action of the petitioner-Corporation imposing the punishment of annual grade increment for a period of two years with cumulative effect besides recovery of an amount of Rs.1,000/- towards damage charges of the bus is not justified and consequently the workman is entitled for refund of Rs.1,000/- and payment of the said incremental arrears from the petitioner-Corporation. Aggrieved thereby, the petitioner-Corporation filed the present writ petition.

Heard the learned standing counsel for the petitioner-Corporation and the learned Government Pleader for Labour (A.P).

Perused the record. The plea that was advanced by the workman is that there was a mechanical defect in the bus and thereby the steering of the bus failed and become free and pulled the bus towards right side despite breaks applied which did not function, the accident occurred. Though this plea was already taken before the Enquiry Officer, there was no evidence put forth to come to the

conclusion that there was a mechanical defect in the vehicle. Except taking a plea, no effort was made by the workman to cause inspection of the vehicle to come to conclusion that there was a mechanical defect. It may be noted that there was not even a request made by the workman before the Enquiry Officer to get the vehicle examined to verify as to whether there was any mechanical defect of the steering or any of the defect in the bus. On the contrary, in the enquiry, it came to light that at about 5.30 a.m in the morning, the workman appeared to have slept resulting the vehicle going to the right side road and thereby resulted the accident. The Tribunal except advertent to the contention which was raised by the workman practically without there being any evidence had exonerated the petitioner from all the charges and set aside the punishment imposed. Inasmuch as the Tribunal had interfered with the order of the disciplinary authority imposing the punishment without there being any material, the same is not sustainable. However, considering the fact that the damage is assessed of Rs.1,000/- by the department itself and there being no other casualties in the accident which was occurred, the interests of justice would be served if the punishment of annual grade increment for a period of two years with cumulative effect is modified to imposing the punishment of annual grade increment for a period of two years without cumulative effect.

Subject to the above modifications, the writ petition is allowed.

No order as to costs.

Miscellaneous petitions, if any pending in this writ petition shall stand closed.

CHALL KODANDA RAM,J

Date:06.09.2016
Gk.

HONB'E JUSTICE CHALLA KONDANDA RAM



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