

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.19038 OF 2006

ORDER

The writ petition is filed questioning the award dated 14.12.2005, passed by the Labour Court-I, Hyderabad in I.D.No.246 of 2004.

The facts in brief are that the 1st respondent was working as a Driver and his services are regularised with effect from 04.01.1984. On 27.4.2004, the 1st respondent was booked for extra service at 17.15 hours to perform two round trips to Borabonda on route No.189-F and two round trips to Secunderabad station on route 5K with a vehicle bearing No. A.E.Z 2808 and the 1st respondent during his last trip while he was coming to Mehidipatnam Dept, stopped the vehicle at Meraj Restaurant at 23.50 hours for which he was not authorised and left without any precautionary measures. In the mean time a civilian by name Sri V. Ramesh took away the vehicle driving himself and he lost over the control gave a dash to one motor cycle bearing No.A.P 13F 9578 and the bus was ramped into a cloth shop known to be M/s. Zam Zam Collections. The Assistant Manager, Mehidipatnam depot conducted a preliminary enquiry and basing on his report the 1st respondent was placed under suspension and he was issued with charge sheet and thereafter removed from the service by proceedings dated 10.09.2004. Challenging the same, the 1st respondent filed I.D.No.246 of 2004 before the Labour Court-I, Hyderabad and the Labour Court after its full trial by an award dated 14.12.2005 directed the 1st respondent to be reinstated. However, considering the negligence on the part of the 1st respondent, the back wages for the period from the date of removal till date of reinstatement were denied to the extent of 50%.

Learned counsel for the petitioner-Corporation submits that the facts as found by the Labour Court are not in dispute that the 1st respondent negligently and un-authorisedly left the vehicle unattended

which enabled a passers-by to take the control of the vehicle which resulted in the accident. He further submits that the very act of leaving the vehicle and at any rate stopping the vehicle at the Meraj Restaurant which was not a scheduled stop to have the tea itself is a creation, misconduct and in that view of the matter granting of back wages even to the extent of 50% is totally arbitrary and unsustainable and liable to be interfered with.

Having considered the respective submissions, it may be noted that the Labour Court has taken a pragmatic view with respect to granting of 50% of back wages. It may also be noted that both in the domestic enquiry and as well as in the trial by the Labour Court, the time of stoppage of the vehicle was found as 11.50 hours in the night. It is also on record that the first respondent was doing extra duty i.e., after completing his regular duty from morning to evening at 5.15 p.m he was asked to do extra duty of another eight hours. In other words, by the time at 11.50 p.m, the 1st respondent had already in duty for 15 hours of hard work that too driving a bus. Naturally a human being at that time to avoid the sleep and to have a petty break, the driver might have stopped the vehicle on the road to have a cup of tea. The same cannot be found fault and rightly the Labour Court reinstated the 1st respondent into service. So far as challenging of back wages is concerned, the back wages were awarded for the period when the matters pending during the enquiry as well as before the Labour Court. It may be noticed that the I.D itself is of the year 2004 and the 1st respondent was directed to be reinstated into service in the year 2006. In other words, the 1st respondent was only on subsisting allowances for the entire period from the date of suspension till the date of reinstatement. In those circumstances, even imposing as a punishment of denying the 50% of back wages is unreasonable and inasmuch as the petitioner had not

challenged the same and the 50% being reasonable in the facts of the present case, the impugned award does not call for any interference.

Accordingly, the writ petition is dismissed. No order as to costs. Miscellaneous Petitions, if any pending in this writ petition shall stand closed.

CHALLA KODANDA RAM,J

Date:21.11.2016,
Gk.



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