

THE HONB'E SRI JUSTICE CHALLA KONDANDA RAM

WRIT PETITION No.1782 OF 2009

ORDER:

The writ petition is filed questioning the award dated 01.06.2007, passed by the 1st respondent-Industrial Tribunal-cum-Labour Court (for short, "the Tribunal"), in so far as denying the reinstatement, continuity of service and other attendant benefits.

It is the case of the petitioner that he had joined the service of the 2nd respondent-Corporation in the year 1982 as a driver and his services were regularized with effect from 09.11.1984. While things stood thus, when the petitioner was driving the bus bearing No.AP-11Z-460 on 05.10.2001 on route Kurnool-Alampur, an accident took place with a steering auto. The steering auto was driven in a rash and negligent manner and when the auto driver trying to over-take the bus, without following traffic rules, which came in opposite direction and resulted the accident. Thereafter the petitioner was issued a with charge sheet dated 13.11.2001 alleging that he had driven the bus with lack of anticipation and negligent manner and after enquiry, the petitioner was found to be guilty of the misconduct of charges. After exhausting the departmental remedies, petitioner approached the Tribunal and after examining the record and taking evidence, the Tribunal had held that there were no irregularities in the departmental enquiry and modified the punishment of removal of the petitioner from service to compulsory retirement from service.

It is the further case of the petitioner that a criminal case filed against the petitioner was ended up in acquittal and thereby the petitioner was exonerated from the criminal charges. It was the contention of the petitioner that the evidence in both criminal case as

well as departmental enquiry being based on the same set of facts petitioner ought to have been exonerated from the charges, but the same was rejected by the Tribunal. However, the Tribunal gave a categorical finding that there was negligence on the part of the petitioner and the charge that the petitioner had driven the bus in a rash and negligent manner stands confirmed. However, the Tribunal had exercised its discretion under Section 11A of the Industrial Disputes Act, 1947 (for short, “the Act”) and substituted the punishment of removal from service with a punishment of compulsory retirement of the petitioner from service.

Learned counsel for the petitioner submits that the punishment of compulsory retirement is not envisaged under the regulations. This aspect of the matter has not been disputed by the learned standing counsel for the respondent-Corporation. Learned counsel for the petitioner also places reliance on the order dated 16.12.2013 of this Court in W.P.No.23673 of 2006 wherein a similar view has been taken. In such case of nature, the Tribunal had already come to the conclusion that it is a case warranting modification of the punishment in exercising of the powers under Section 11A of the Act. In the facts of the present case, the interest of justice would be served, if the matter is remanded back to the Tribunal for reconsideration limited to the extent of modifying the punishment appropriately.

Accordingly, the writ petition is allowed setting aside the order dated 01.06.2007, passed by the 1st respondent-Tribunal in I.D.No.208 of 2003 modifying the punishment of the petitioner from removal of service with compulsory retirement with a direction to the Tribunal to consider the material on record and after hearing both the parties pass appropriate orders with respect to the punishment. As it

is submitted by the learned counsel for the petitioner that the petitioner was already retired from service long back on attaining the superannuation, the entire exercise of disposal of the matter shall be completed within a period of four months from the date of receipt of copy of this order. 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.



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