

HON'BLE SRI JUSTICE R.KANTHA RAO

Writ Petition Nos.25880 of 2015

Order:

The petitioner was appointed as a driver in the respondents-Telangana State Road Transport Corporation (the Corporation, for short) in the year 1988. While so, when he was performing the duties as a driver on the route 115 from Koti to Uppal, the bus met with an accident near Irani Hotel, Amberpet. He was issued with a charge-sheet dated 30-9-2003 levelling the following charges against him:

- i) For having driven the bus No.AEZ 5993 on 06-9-2003 in a rash and negligent manner and hit Sri Shakeel, Cyclist, aged about 32 years causing in death of him, which constitute misconduct on your part in terms of Regulation No.28(ix) of APSRTC (Conduct) Regulations, 1963.
- ii) For having failed to take precautionary measures while driving the bus AEZ 5993, on 06-9-2003 at Amberpet, where the traffic, is more, resulting in factual accident, which constitutes misconduct on your part under Regulation 28(x) of APSRTC Employees (Conduct) Regulations, 1963.

2. The petitioner submitted an explanation denying the charges. The 2nd respondent did not consider the explanation and appointed an Enquiry Officer to conduct enquiry into the charges. The Enquiry Officer conducted enquiry and found the petitioner guilty of the charges and submitted his report. Thereafter, the Disciplinary Authority

terminated the petitioner from service. Feeling aggrieved, the petitioner filed I.D.No.95 of 2005 before the Labour Court. The Labour Court-I, A.P., Hyderabad passed an award dated 29-6-2009 directing the 2nd respondent to reinstate the petitioner into service with continuity of service and 75% of back wages. Against the award passed by the Labour Court, the respondents-Corporation filed W.P.No.5695 of 2010 before this Court and this Court granted interim stay only in respect of back wages. The grievance of the petitioner is that as the stay was only in respect of the back wages, the 1st respondent ought to have fixed pay to the petitioner by adding increments from the date of termination till the date of reinstatement i.e. from 16-9-1992 to 13-10-2009. He therefore filed the present writ petition to direct the respondents-Corporation to fix the pay of the petitioner by adding the increments from the date of termination till the date of reinstatement i.e. from 16-9-1992 to 13-10-2009.

3. W.P.No.5695 of 2010 filed by the respondents-Corporation is pending before this Court. The relief prayed for in the present writ petition should have been asked by the petitioner in the said writ petition which is pending. The reason being while the earlier writ petition is pending in respect of the same cause of action, the petitioner cannot maintain the 2nd writ petition and seek

an interim order. The petitioner ought to have sought clarification as to the adding of increments in W.P.No.5695 of 2010 only but not by way of a fresh writ petition.

4. The present writ petition is therefore dismissed with liberty to the petitioner to seek the interim relief in the pending writ petition i.e. W.P.No.5695 of 2010.

The miscellaneous petitions, if any, pending in this writ petition shall stand closed. No costs.

R.KANTHA RAO, J.

07th April, 2016.
Ak

HON'BLE SRI JUSTICE R.KANTHA RAO

Writ Petition Nos.25880 of 2015

07th April, 2016.
(Ak)