

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.887 OF 2009

ORDER:

The Order dated 01.05.2008 in I.D.No.104 of 2006 passed by the Labour Court, Guntur is challenged before this Court in setting aside the punishment imposed on the member of the 1st respondent-Union.

Heard learned Standing Counsel Sri P. Durga Prasad and learned counsel for 1st respondent Smt. K. Udaya Sri.

As can be seen from the record the member of the Union D. Sambaiah, who is working as Driver in the petitioner-Corporation was issued with two charges –

- 1) For having caused fatal accident with vehicle AEZ 5007 while driving on route No.28-B resulting one pedestrian died on 25.05.2001 at Benz Circle company at about 14-30 hrs., which constitutes misconduct vide Reg.28 (ix)(a) of APSRTC Employees Conduct Reg.1963.”
- 2) For having driven the vehicle in a gross negligent manner without taking precautionary measures while driving the vehicle AEZ 5007 on 25.05.2001, which results in fatal accident which constitutes misconduct vide Reg.29(ix)(a) of APSRTC Employees (Conduct) Reg.1963.”

In the domestic inquiry, the disciplinary authorities found petitioner to be guilty and a punishment of imposition of withholding of two annual increments for a period of two years was imposed by an Office Order-cum-Show Cause Notice dated 08.02.2002. The Appeal and the revision preferred before the Departmental authorities also came to be rejected and thereafter the 1st respondent Union sought reference under Section 10-1(c) of the I.D. Act and the same was taken on file and numbered the

same as I.D.No.104 of 2006. The Industrial Tribunal after carefully examining the record and after considering the material that is brought before it recorded a categorical finding that the allegation of rash and negligent driving of the delinquent viz., D. Sambaiah was not proved and there was no material which was brought even before the Enquiry Officer and it is only the conclusions drawn in the inquiry report based on mere assumptions and conjectures and the finding was recorded by the Industrial Tribunal that the accident occurred only on account of the negligence of the deceased, who was passers-by and who tried to cross the road when the green light was on. Though the said finding of the fact was challenged before this Court, there is no material which could be brought before this Court to sustain that the finding recorded by the Presiding Officer is any way prevails. Even in the Inquiry report what all has been pointed out is –

“On perusal of the above statements it is observed that the pedestrian is a physically handicapped person and his height is only 4 feet. Because he was short, the driver Sri D. Sambaiah, E.357234, might not have observed him when he was crossing the road in front of his bus and dashed him at its right side corner which resulted in injuries to the pedestrian who was succumbed to injuries after admitting at Government hospital, Vijayawada. As soon as public shouted, AEZ 5007 bus only was topped and no other vehicles are stopped. Hence AEZ 5007 is involved in accident as per the above evidences. Sri D. Sambaiah, E. 357234, driver of GVP-I depot took the injured person to the Govt. Hospital and admitted there because his vehicle is involved in the accident. If his vehicle was not involved he should have certainly reported the matter to the depot authorities before taking the pedestrian in an Auto. The pedestrian had received internal injuries as per the postmortum report and hence there are no blood marks at the accident spot or to the bus.

In view of discussion made above through recording of statements and evidences available on record, I am of the opinion and constrained to hold Sri D. Sambaiah, E.357234, driver of GVP-I depot and delinquent employee in the case is responsible for the Charge No.1 mentioned above levelled against him. Therefore, the charge No.1 in the charge sheet No.C1/2(8)/2001-GVP-I, dt.15.06.2001 is held PROVED.”

A careful reading of the above extracted portion leaves no manner of doubt that the very recording of the finding that the injuries to the deceased were caused by the petitioner was only presumed. There is no other material in entire of the inquiry report which would go to support that in any way the driver was involved in causing injury resulting in the passers-by dying.

On the other hand, the material on record goes to disclose that the deceased person was trying to cross the road when the green signal was on. In those circumstances, the finding recorded by the Presiding Officer that the inquiry is based on no evidence and thus the punishment meted out to the petitioner is unjustified cannot be found fault. There being no merits in the writ petition, this Writ Petition is liable to be dismissed.

Accordingly, this Writ Petition is dismissed. There shall be no order as to costs. As a sequel, miscellaneous petitions pending, if any, shall also stand closed.

CHALLA KODANDA RAM, J

Dated: 29.08.2016

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