

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 4210 OF 2008

ORDER :

The petitioner was appointed as a driver in the state-owned Corporation at its Jammalamadugu Depot, Kadapa District. On 14.06.2003, while he was operating the bus bearing Registration No. AP 11Z 1516, at about 04.00 A.M. on Tirupati-Jammalamadugu route, near K.M.C. Office, Bhakarapet, an accident occurred due to his rash and negligent driving, as a result of which, a pedestrian one Chinnamma suffered instantaneous death, was the allegation levelled against the petitioner. Based on the preliminary enquiry report dated 17.06.2003 submitted by the Senior Traffic Inspector, the petitioner was suspended from service by an order dated 17.07.2003 and he was served with a charge-sheet, for which, he submitted an explanation on 05.08.2003. After completion of inquiry, the Enquiry Officer submitted a report dated 16.09.2003 holding the petitioner guilty of the charge framed against him. Thereafter, the respondent-Corporation removed the petitioner from service on 25.11.2003. The Appeal and the Revision preferred thereagainst to the Divisional Manager and the Regional Manager were also rejected on 27.02.2004 and 10.05.2004 respectively. Hence, the petitioner preferred I.D.No. 123 of 2004. The Labour Court, after analyzing the material evidence placed before it, came to the conclusion that since the accident occurred at wee hours, it cannot be said that the petitioner drove the vehicle in a rash and negligent manner, hence, modified the punishment of removal from service to that of fresh

appointment of the petitioner into service as driver, but without continuity of service and back-wages. Aggrieved by that portion of the Award, which has not allowed continuity of service and other benefits, the petitioner preferred this Writ Petition.

The respondent-Corporation filed a counter-affidavit stating that pursuant to the Award passed by the Labour Court, the petitioner was reinstated into service and presently he has been working at Rajampet Depot. It is further stated that due to the accident caused by the petitioner, the Corporation had to pay Rs.1,25,000/- towards compensation to the family of the deceased. According to it, the Labour Court has already taken a lenient view and hence, no further consideration can be shown to the petitioner, and hence, prayed for dismissal of the Writ Petition.

Heard learned counsel for the petitioner as well as Sri A. Rama Rao, learned Standing Counsel for the respondent Corporation.

At the outset, it has to be mentioned that the respondent-Corporation has not challenged the Award made by the Labour Court. The Labour Court, while dealing with the Industrial Dispute, had held as under:

“At the time of preliminary enquiry the statement of one independent witness was recorded under Ex.M5 by the preliminary enquiry officer wherein he stated that due to negligent driving of the bus by the petitioner the accident occurred and that the deceased woman died on the spot. This witness was not produced before the domestic enquiry officer to enable the petitioner to hear her statement and to do any cross-examination on him.

The allegation against the petitioner that he drove the bus at the time of accident rashly and negligently is not based on any circumstantial evidence or direct evidence and the direct evidence may not be available since the accident occurred in the early hours of the day and such being the case the circumstances produced by the respondent in evidence is not so much of accountable to come to conclusion that the petitioner had driven the vehicle rashly and negligently resulting fatal accident. At the same time, it has to be noted that when a vehicle was coming on it is also a bounden duty of the petitioner herein to apply dipper of bus head lights so as to find the way and to find out whether any pedestrian would be present at the relevant time since the accident occurred in the outskirts of the village that too in the early hours during which time the villagers would be preceding to their agricultural lands or some time the villagers would be attending their calls of nature.”

In the light of the above findings recorded by the Labour Court, the conclusion drawn to the effect that the punishment of removal from service is severe and thereby requires modification, cannot be found fault with. At the same time, denial of past service, in view of the unblemished service rendered by the petitioner since his joining in 1996 till 2003, is unreasonable. For involving in the accident, the petitioner has already suffered a lot by not being employed for a period of four years between 2003 and 2007, thereby depriving his livelihood. During the suspension period, the petitioner was paid only the wages under Section 17-B of the Industrial Disputes Act, 1947. It cannot be said that any individual, particularly a driver of about 15 years experience, with an intention, would cause accident. In those circumstances, interests of justice would be better served if the Corporation is directed to take into consideration the past service rendered by the

petitioner for the purpose of retirement benefits only. Ordered accordingly. However, the relief claimed by the petitioner with regard to the other monetary benefits is rejected.

Subject to the above, the Award dated 23.05.2007 in I.D.No. 123 of 2004 on the file of the Labour Court at Anantapur stands modified.

With this, the Writ Petition stands disposed of. No costs.

Consequently, the miscellaneous applications, if any shall also stand disposed of.

09th November 2016

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CHALLA KODANDA RAM, J

