

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.4889 of 2011

Date: 25.07.2016

Between:

The Depot Manager, APSRTC,
Kamareddy Depot and another.

..... Petitioners

And

Abdul Razak, s/o Abdul Jaleel,
Driver, E 79426, Age 59 years,
APSRTC, Kamareddy Depot,
C/o P.Naveen, H.No.5-11-664,
RTC Colony, Yellammagutta,
Nizamabad and another.

..... Respondents

The Court made the following:

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ORDER:

First respondent was the driver of the petitioner corporation. It appears, on 27.05.1999 the vehicle driven by the 1st respondent met with accident, which resulted in death of one person. On the said incident, criminal proceedings as well as departmental proceedings were initiated against the 1st respondent. Sum and substance of the allegation is rash and negligent driving. Departmental proceedings resulted in removal from service by order dated 09.12.1999. On appeal preferred by the 1st respondent, the appellate authority, by its order dated 15.05.2000, modified the punishment of removal to that of reduction of pay by two incremental stages for a period of two years with cumulative effect. Aggrieved by the said order of the appellate authority,

1st respondent raised industrial dispute by filing I.D.No.139 of 2007. In the mean time, 1st respondent was acquitted in criminal case.

2. On detailed consideration of the issue and relying on the findings recorded by the criminal Court, the Labour Court held that even the punishment imposed by the appellate authority is not valid when once the delinquent employee was acquitted of the allegation of rash and negligent driving and that the appellate authority ought not to have imposed such punishment. Having regard to the said finding, Labour Court directed that the period from the date of removal till he reported to duty is treated as on duty and to pay 10% of back wages for the period of out of employment.

3. Heard Sri C.Sunil Kumar Reddy, learned counsel for petitioners, learned Government Pleader for Labour (TG) for respondent No.2 and none appeared for respondent No.1.

4. It is the first and foremost submission of the learned counsel for petitioners that in the validly conducted departmental proceedings, 1st respondent was visited with the punishment, initially of removal from service and on appeal, modified to that of reduction of pay by two

incremental stages for a period of two years. The disciplinary proceedings were concluded prior to the judgment in criminal case.

Merely because the 1st respondent was acquitted by the criminal Court, cannot be a ground to nullify the departmental proceedings. He submits, Labour Court erred in relying upon the judgment of the criminal Court in setting aside the punishment imposed. In support of the said contention, learned counsel placed reliance on the decision of the Supreme Court in **State Bank of Bikaner and Jaipur v. Nemi Chand Nalwaya**^[1].

5. Though the disciplinary authority imposed the punishment of removal from service, on consideration of the appeal filed by the 1st respondent, the order of removal was modified to that of reduction of pay by two incremental stages for a period of two years. This would itself show that gravity of the offence was not considered serious as originally envisaged. Against this punishment order, 1st respondent invoked the jurisdiction of Labour Court under the Industrial Disputes Act. The Labour Court has considered the issue on merits, based on the evidence on record and also placing reliance on the findings recorded by the criminal Court on the issue of rash and negligent driving and has come to independent conclusion that the punishment imposed on the 1st respondent is wholly unwarranted once the allegation of rash and negligent driving is not proved by the competent Court. The allegation against the 1st respondent is rash and negligent driving. In the trial conducted against the 1st respondent in CC No.825 of 1999, the competent Court held that the 1st respondent is not guilty of offence under Section 304 (A) of IPC and accordingly acquitted. Thus, as the allegation of rash and negligent driving is not proved, the Labour Court on independent analysis of the material on record has come to definite conclusion that the punishment visited against the 1st respondent even by the appellate authority is not warranted. In the

facts of this case, the decision relied by petitioners do not come to their rescue. It is a well considered decision of Labour Court. I, therefore, see no error in the decision arrived at by the Labour Court warranting interference by this Court in exercise of power of judicial review under Article 226 of the Constitution of India. The writ petition is accordingly dismissed.

Miscellaneous petitions if any pending shall stand dismissed. No costs.

JUSTICE P.NAVEEN RAO

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[\[1\]](#) (2011) 4 SCC 584