

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WP.No.20905 of 2017

ORDER :

This Writ Petition has been filed assailing the Award dt.09.01.2017 of the Industrial Tribunal at Warangal in I.D.No.19 of 2015.

2. The 1st respondent was employed as a driver in the Andhra Pradesh State Road Transport Corporation.

3. On 03.05.2014 when the 1st respondent was driving a bus belonging to the petitioner, a major accident occurred at about 21:15 hrs. near Kotagandi, and the bus driven by the 1st respondent hit a car coming in the opposite direction resulting in head injuries to the owner-cum-driver of the said car. The bus was shifted to Geesugonda Police Station, and at that place, the 1st respondent was subjected to breath analyzer test by an R.T.C. Constable.

4. Alleging that the breath analyzer gave a 'beep' sound confirming that the 1st respondent had consumed alcohol, charge-memo was issued to the petitioner raising two charges, viz.,

“Charge No.1 : For having driven the bus No.AP-11-Z-442 in rash and negligent manner and met an accident with a car coming in opposite direction resulting extensive damages to the car and sustained head injuries to the car driver while performing duty on route WL-Muddunur on 03.05.2014, which constitutes misconduct in terms of Reg.28(ix) (a) (b) of A.P.S.R.T.C. Employees (Conduct) Reg. 1963.

Charge No.2 : For having consumed alcohol while on duty as driver on 03.05.2014 on route WL-Muddunur night out service with the Bus No.AP-

11-Z-442 which proved through Breath Analyser witnessed by the Traffic Supervisor and R.T.C. Security Personnel resulting in a major accident to a car bearing No.AP-36-AA-8120 caused extensive damages and sustained head injuries to the car driver, which constitutes misconduct in terms of Reg.28(xvii) & (xxxii) of A.P.S.R.T.C. Employees (Conduct) Reg.1963.”

5. In the explanation given by the 1st respondent to the charge-memo, he contended that the accident occurred due to sudden fall in his blood pressure.

6. However, a disciplinary enquiry was conducted on the basis of which an order dt.18.08.2014 was passed, removing the 1st respondent from service.

7. Appeal and Review Petitions filed by the 1st respondent were rejected.

8. Thereafter, the 1st respondent filed an application under Section 2-A(2) of the Industrial Disputes Act, 1947 before the 2nd respondent-Industrial Tribunal, and the same was numbered I.D.No.19 of 2015.

9. No evidence was adduced before the said Tribunal.

10. An Award dt.09.01.2017 was passed by the Tribunal setting aside the punishment of removal imposed on the 1st respondent, and directing that he be reinstated into service; and it was further directed that his pay be reduced by two incremental stages.

11. The Tribunal held that the bus became uncontrolled and dashed against the car coming in the opposite direction, and damage was caused to the right side doors of the car, apart from a head injury to

the car owner. It further observed that the bus conductor did not say that the petitioner was drunk while driving the bus, and the R.T.C. Constable who conducted the breath analyzer test stated that the breath analyzer did produce the 'beep' sound though the battery was weak; that the R.T.C. Constable did not say that the breath analyzer analysed the sample and gave blood alcohol concentration estimate, and did not give readings of the breath analyzer.

12. Taking note of these facts, and also the fact that the 1st respondent was not subjected to any medical test, the Industrial Tribunal held that the charge that the 1st respondent consumed alcohol while on duty was not proved.

13. The counsel for petitioner sought to contend that this finding of the Industrial Tribunal is contrary to the finding in the disciplinary proceedings, and that the finding in the disciplinary proceedings could not have been interfered with by the Industrial Tribunal. Ordinarily the Industrial Tribunal cannot interfere with the findings in the disciplinary proceedings, but in the present case, having made a specific allegation that the 1st respondent was intoxicated while driving, no medical evidence was adduced to establish that the 1st respondent was under the influence of alcohol and in the absence of evidence of the bus conductor that the 1st respondent was under the influence of alcohol while driving the bus, the findings of the Industrial Tribunal cannot be found fault with. The Tribunal has correctly appreciated the evidence on record and interfered with the

quantum of punishment in exercise of its power under Section 11-A of the Act.

14. Therefore, I see no error of jurisdiction warranting interference with the Award passed by the Industrial Tribunal.

15. Accordingly, the Writ Petition is dismissed at the stage of admission. No order as to costs.

16. As a sequel, miscellaneous petitions pending if any in this Writ Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 28-06-2017

Ndr/*

