

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.6910 OF 2003

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India seeking the following relief:-

“to issue a writ, order or direction particularly one in the nature of writ of certiorari calling for the records pertaining to I.D.No.163/2000 on the file of Industrial Tribunal-cum-Labour Court, Visakhapatnam dt.18.11.2002 and quash the same as illegal.”

2. It is stated in the affidavit filed in support of the writ petition that respondent No.1 herein is a Driver of the petitioner Corporation. While he was working in Rajahmundry Depot, on 14.12.1997, he caused accident to an old woman aged 70 years as a result of which, she died on the same day. After receipt of preliminary enquiry report by the police, a charge sheet was issued to him by framing four charges and he was placed under suspension. After receipt of the explanation to the charge sheet, the management has sent the case of the Chief Inspector (Enquiries), Rajahmundry for conducting a detailed enquiry. The charges were held proved as per the domestic enquiry report. The management, after receipt of the enquiry report, has lifted the suspension order imposing punishment of withholding his annual increment for a period of two years with cumulative effect besides treating the suspension period as not on duty for the purpose of leave and increment.

The appeal and review filed by respondent No.1 were rejected as there were no grounds to consider his case. Against the order of punishment, respondent No.1 filed I.D.No.163 of 2000 on the file of respondent No.2/The Industrial Tribunal – cum – Labour Court, Visakhapatnam. The Labour Court passed the award by setting aside the punishment imposed by the management and ordered to pay arrears. Challenging the said award, the Corporation filed the present writ petition.

3. Heard and perused the material available on record.

4. The operative portion of the award, dated 18.11.2002, passed in I.D.No.163 of 2000 reads as follows:

“In the result, the reference is answered holding that the action of the Depot Manager imposing punishment of deferment of increment for two years with cumulative effect besides treating the suspension period as not on duty for purpose of leave and increment is not justified. Consequently, the workman is entitled to arrears of increment. During the period of suspension, the workman is entitled to his full pay excluding the subsistence allowance if any given to him.”

On 29.12.2010, this Court directed learned counsel for the petitioner to take out personal notice to respondent No.1 by registered post with acknowledgment due and file proof of service within six weeks from that day and if for any reason, the notice was not served, the same shall be brought to the notice of the Registry without fail and in case of default, the writ petition stands dismissed against respondent No.1 without further reference to the Court. As no personal notice was served on respondent No.1, the

writ petition was dismissed for default against respondent No.1. It is also brought to the notice of this Court that respondent No.1 was already retired from service and as per the interim order, dated 21.04.2003, in W.P.M.P.No.8996 of 2003, the petitioner has complied with Section 17(B) of the Industrial Disputes Act, 1947 i.e., payment of full wages to respondent No.1 pending proceedings before this Court.

5. From the facts and circumstances of the case and after perusal of the record, this Court is also of the view that respondent No.1 has not caused the death of the deceased due to his rash and negligent driving and hence, the imposition of punishment by the authorities is rightly set aside by respondent No.2/Tribunal. Therefore, this Court is not inclined to interfere with the award passed by respondent No.2 and hence, the writ petition is liable to be dismissed.

6. Accordingly, this writ petition is dismissed. There shall be no order as to costs.

7. Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

JUSTICE RAJA ELANGO

Date : 07.08.2017
AMD

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