

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.25540 of 2006

ORDER:

This writ petition is filed under Article 226 of the Constitution of India assailing the award passed by the Labour Court –III, Hyderabad in I.D.No.89 of 2002.

2. Heard Sri N.Vasudeva Reddy, learned Standing Counsel for the respondent Corporation and Sri Subaan for the respondent No.1 apart from perusing the material available before the Court.

3. The first respondent herein is a Driver working in the petitioner-Road Transport Corporation and he was appointed as such in the year 1990. Followed by an accident wherein one person lost his life besides initiating criminal prosecution a chargesheet dated 15.06.1996 was issued by the Disciplinary authority framing the following charges:

“1. For having involved in fatal accident due to your lack of anticipation while negotiating a turn at Chanchalguda Traffic Island while driving the vehicle No.AP9Z-6010 on Route No.102P at about 22.15 hours on 01.06.1996, which is a mis-conduct in terms of Clause-28 (xxxii) of APSRTC Employees' (Conduct) Regulations, 1963.

2. For causing death of TVS Champ rider while driving the vehicle No.AP9Z-6010 on route No.102P on 01.06.1996 which is a mis-conduct in terms of Clause 28 (xxxii) of APSRTC Employees' (Conduct) Regulations, 1963.”

4. The first respondent/workman herein submitted an explanation to the said charge-memo on 16.07.1996 and thereafter the enquiry officer was appointed who after holding enquiry submitted a report on 20.09.1997. Subsequently, the Disciplinary Authority passed an order of punishment on 20.02.1997, inflicting on the first respondent herein the punishment of

deferment of two annual increments with cumulative effect. Thereafter, after unsuccessfully availing the remedy of appeal and review, the first respondent herein raised I.D.No.89 of 2002 on the file of the Labour Court-III, Hyderabad under Section 10 (1) (c) of Industrial Disputes Act. On the basis of the material available before it, the Tribunal framed the following point for consideration:

“Whether the punishment imposed on the petitioner as stated in the reference can be interfered with in any manner and if so, to what relief the petitioner is entitled to?”

5. Before the labour Court, on behalf of the management Exs.M1 to M.15 were marked. Eventually, the labour Court passed the impugned award dated 30.11.2004, setting aside the order of punishment while declaring that the first respondent herein is entitled for restoration of increments, suspension allowance and other benefits if any.

6. According to the learned counsel for the petitioner/Road Transport Corporation the impugned award is erroneous, contrary to law and opposed to the very spirit and object of the provisions of the Industrial Disputes Act, 1947. It is further submitted that the Tribunal grossly erred in disturbing the order of removal and the Tribunal did not properly consider the evidence available on record. According to the learned Standing Counsel, the Tribunal erred in meddling with the order of punishment imposed by the Disciplinary authority as confirmed by the appellate and reviewing authorities in the absence of any perversity in the said order.

7. A perusal of the award under challenge reveals manifestly that there was no eyewitness examined by the Management in the Domestic Enquiry to prove the guilty of the first respondent herein. The Tribunal also recorded a categorical finding that there is no material to believe that the first

respondent herein drove the bus rashly or negligently and became responsible for the accident. The Tribunal also took into consideration the Judgment rendered by the XII Metropolitan Magistrate in C.C.No.272 of 1996 dated 17.05.1997 acquitting the first respondent of all the charges. The Tribunal also dealt with the aspect of delay in approaching the Tribunal and found eventually that there is no delay on the part of the first respondent in filing the reference. It is a settled and well established proposition of law that unless the order impugned suffers from perversity a Writ in the nature of Certiorari cannot be issued by this Court under Article 226 of the Constitution of India and this Court cannot sit in appeal over the orders of the Tribunal in exercise of the jurisdiction under Article 226 of the Constitution of India. In the considered opinion of this Court, the award passed by the Tribunal does not suffer from any infirmity, as such, the present writ petition does not merit any consideration.

8. For the aforesaid reasons, the writ petition is dismissed. As a sequel, the miscellaneous petitions, if any, shall stand disposed of. There shall be no order as to costs.

A.V.SESHA SAI, J

Date:15.06.2017
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THE HON'BLE SRI JUSTICE A.V.SESHA SAI



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Dated 15.06.2017

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