

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD

WRIT APPEAL No.1071 of 2017

07.08.2017

Between:

The Depot Manager,
Telangana State Road Transport Corporation (T.S.R.T.C.),
Narsampet Depot, Warangal District

..Appellant

and

M.Prabhakar and another

..Respondents

Counsel for the appellant: Mr.B.Mayur Reddy,
standing counsel for T.S.R.T.C.

Counsel for respondent No.1: --

Counsel for respondent No.2: Government Pleader for Labour (TS)

The Court made the following:



JUDGMENT: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

The order of the learned Single Judge dismissing W.P.No.20905 of 2008 filed by the appellant assailing award, dated 09.01.2017, in I.D.No.19 of 2015 on the file of the Industrial Tribunal, Warangal – respondent No.2 is questioned in this writ appeal.

2. The facts relevant for disposal of this writ appeal have been narrated in detail in the aforementioned award and also in the order under appeal and therefore, they need not be re-stated. It will suffice to note that respondent No.1 was subjected to department enquiry on the ground that when he was driving the bus belonging to the Telangana State Road Transport Corporation (for short 'the Corporation'), the breath analyzer gave a beep sound, from which it was presumed that respondent No.1 consumed alcohol. The two charges framed against respondent No.1 read as under:

“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 witnesses 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(xvi) & (xxxii) of A.P.S.R.T.C. Employees (Conduct) Reg.1963.”

Based on the enquiry report submitted by the enquiry officer, the appellant passed order, dated 18.08.2014, removing respondent No.1

from service. Respondent No.1 being unsuccessful in the appeal raised an industrial dispute under Section 2-A(2) of the Industrial Disputers Act, 1947 (for short 'the Act') before respondent No.2 Tribunal. On appreciation of the oral and documentary evidence, the Tribunal has doubted the conclusiveness of the breath analyzing test. It has also pointed out that the breath analyzer has not analyzed blood sample and no report with respect to the blood alcohol concentration of respondent No.1 was obtained by the Corporation. Having considered the fact that respondent No.1 joined the Corporation service as Daily Wage Driver with effect from 31.03.1990, and his services having been regularized with effect from 01.07.1991 besides his clean record showing that he has not caused any fatal accident, the Tribunal has felt that the punishment of removal from service is disproportionate to the gravity of the misconduct and accordingly, it has reinstated respondent No.1 into service by substituting the penalty of removal with that of reduction of pay by two incremental stages, apart from directing that the period from the date of suspension to the date of reinstatement shall be treated as not on duty for all purposes. Feeling aggrieved by the said award, the Corporation filed W.P.No.20905 of 2017, which as noted hereinbefore was dismissed.

3. During the hearing, Mr.B.Mayur Reddy, learned standing counsel for the Telangana State Road Transport Corporation (T.S.R.T.C.) appearing for the appellant, has fairly conceded that the criminal case filed against respondent No.1 ended in his acquittal.

4. In the light of the above facts and having regard to the fact that the Tribunal has exercised sound discretion in reducing the penalty by invoking Section 11-A of the Act, with which the learned Single Judge

declined to interfere, we do not find any error apparent on the face of record for our interference in exercise of our Letters Patent jurisdiction.

5. For the aforementioned reasons, the Writ Appeal is dismissed.

6. As a sequel to dismissal of the writ appeal, W.A.M.P.No.2054 of 2017 filed by the appellant for interim relief shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

GUDI SEVA SHYAM PRASAD, J

07th August, 2017
GHN

