

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO**W.P.No.16614 of 2017****ORDER:**

Heard the learned Standing Counsel for the petitioner and the learned counsel for the 1st respondent.

2. This Writ Petition is filed by Telangana State Road Transport Corporation challenging the award dt.05-12-2015 in I.D.No.31 of 2009 of the Industrial Tribunal cum Labour Court at Warangal.

3. The 1st respondent was employed as a driver by the petitioner-Corporation. When he was driving bus on the route Tarnaka to Jangaon, an accident occurred and the bus hit a way side big tree, resulting in injuries to 18 passengers on 10-08-2001 near Vangapally village.

4. Alleging that the 1st respondent was driving vehicle in a negligent manner, charge memo was issued to him and after conducting enquiry, an order dt.18-04-2002 was passed deferring the 1st respondent's annual increment of two years with cumulative effect and by treating the period of suspension as 'not on duty' for all purposes and for recovering Rs.1000/- towards costs of damage to the bus in four instalments.

5. The 1st respondent filed an appeal before the Divisional Manager, Hanamkonda, which was rejected on 26-04-2005.

6. A Review Petition was also filed by 1st respondent before the Regional Manager, Warangal, which was also rejected on 14-05-2008.

7. Then the 1st respondent raised an industrial dispute which was referred to 2nd respondent Tribunal. He contended that there was no rashness or negligence on his part while driving bus, that prior to the date of incident, he was suffering loose blood motions and he had even applied for leave, but due to shortage of drivers, he was compelled to drive the vehicle. He said that while he was steering the bus, he developed giddiness and though he tried to control the bus to the best of his ability, he went to extreme right of the road and hit a tree.

8. The petitioner opposed the same and contended that the charge against the 1st respondent was proved in the enquiry.

9. It is not in dispute that a criminal case C.C.No.513 of 2001 filed against 1st respondent by the petitioner before the Judicial Magistrate of First Class, Bhongir under Section 304-A IPC and it ended in acquittal on 05-07-2004 as none of the witnesses cited in the charge sheet were examined by petitioner.

10. The Tribunal took into account the preliminary enquiry statement, Ex.M-5 made by the 1st respondent and accepted his plea that he was suffering from blood motions, that he took medicines to control loose motions and that while driving the bus, he developed

giddiness and lost control over the bus. Though he did not adduce independent evidence, he consistently took the similar plea in the enquiry and no suggestion was given to him that his plea was a false plea. It also noted that the Area Hospital, Bhongir had noted in Ex.M-8 that 1st respondent also sustained injuries in the accident and he was given treatment for the injuries and then referred to Government Hospital for further treatment. The Tribunal therefore came to the conclusion that the punishment to the extent of deferment of annual increment for two years with cumulative effect is disproportionate to the proved misconduct and reduced it to deferment of annual grade increment for one year with cumulative effect.

11. Though learned counsel for the petitioner sought to contend that the Industrial Tribunal could not have reduced the quantum of punishment in this manner in view of the admitted fact that the 1st respondent caused the accident, I am of the opinion that under Section 11-A of the Act, the Industrial Tribunal has the power to reduce the punishment in case it has come to a finding that the punishment imposed was disproportionate to the proved misconduct.

12. Such a finding has been given in the present case keeping in mind the health condition of the petitioner at the time when the incident in question occurred and the circumstances under which he was made to drive the vehicle even though he was suffering from blood motions. The contention of the petitioner that independent evidence could have been adduced by 1st respondent cannot be

countenanced because in a situation of this nature, there would not be any independent evidence available except the word of the petitioner. Admittedly no suggestion was given to 1st respondent that his plea was a false plea.

13. Therefore, I do not find any error of law apparent on the face of the record in the impugned award passed by 2nd respondent warranting interference by this Court in exercise of its power under Article 226 of the Constitution of India.

14. Accordingly, the Writ Petition is dismissed at the admission stage. No costs.

15. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 01-06-2017
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