

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

WRIT APPEAL Nos. 1042 & 1044 OF 2017

DATED 14TH SEPTEMBER, 2017

WRIT APPEAL No. 1042 OF 2017

Between:

Madagala Appa Rao ... Appellant

AND

Andhra Pradesh State Road Transport Corporation,
Rep. by its Chairman & Managing Director,
RTC X Roads, Bus Bhavan,
Hyderabad, and others ... Respondents

Counsel for the appellant : Sri S.Ravindranath

Counsel for the respondents : Sri S.V.Ramana

WRIT APPEAL No. 1044 OF 2017

Between:

Madagala Appa Rao ... Appellant

AND

Andhra Pradesh State Road Transport Corporation,
Rep. by its Chairman & Managing Director,
RTC X Roads, Bus Bhavan,
Hyderabad, and another ... Respondents

Counsel for the appellant : Sri S.Ravindranath

Counsel for the respondents : Sri S.V.Ramana

THE COURT MADE THE FOLLOWING

COMMON JUDGMENT: (per Hon'ble Sri Justice C.V.Nagarjuna Reddy)

These two Writ Appeals arise out of common order dated 05-01-2016, whereby the learned single judge has dismissed W.P.Nos. 19767 and 36033 of 2015. Therefore, they are heard and being disposed of together by common judgment.

2. The petitioner was a driver in the Andhra Pradesh Road Transport Corporation working under respondent No. 3. He was subjected to departmental proceedings in connection with an accident while on duty resulting in death of a scooterist due to the rash and negligent driving of the bus by him. After full-fledged inquiry, the appellant was removed by order dated 23-01-1992. Questioning the order of his removal, the appellant approached the Labour Court, Visakhapatnam, and he was also unsuccessful before it. About 20 years after the award dated 31-08-1995 of the Labour Court, the appellant has filed W.P.No. 19767 of 2015 with the grievance that the appellant authority has not been disposing of the appeal filed by him against the order of his removal. The learned single judge passed an *interim* order on 02-07-2015 directing the appellate authority to pass appropriate orders on the appeal filed by the appellant. In due compliance of the said *interim* order, the appellate authority has passed orders on 07-10-2015 rejecting the appeal mainly on the ground that there was an inordinate delay of 23 years in filing the appeal. The appellate authority also observed that having regard to the present age of the appellant, it is not safe to reinstate him as driver and put the passengers and other road users to risk. Assailing the said order, the appellant has filed W.P.No. 36033 of 2015. Both these Writ Petitions came to be dismissed by the learned single judge.

3. Feeling aggrieved by the said order, the Writ Petitioner has filed these appeals. In his order, the learned single judge has observed that the main ground on which the appellant has sought his reinstatement was his acquittal in criminal case. The learned single judge however rejected the said plea by observing that the appellant has not secured honourable acquittal in the criminal case as his acquittal was due to the witnesses turning hostile. The learned single judge also observed that there are heavy laches on the part of the appellant inasmuch as while he suffered the order of removal on 23-01-1992 and was acquitted on 26-07-1994, he remained quiet for 21 years after his acquittal and chose to approach this Court thereafter.

4. After carefully considering the reasons, for which the learned single judge has dismissed the Writ Petitions, we do not have any reason to take a different view. The appellant has allowed his removal order, as confirmed by the Labour Court, to attain finality and woken up belatedly by filing an appeal 23 years after he was removed and 21 years after he was acquitted. It is also not in dispute that the acquittal was due to the witnesses turning hostile. Therefore, the appellant cannot rely on the judgment of the criminal Court in order to overturn the order of removal passed following the departmental enquiry. The law is well settled that the preponderance of probabilities is sufficient to prove the misconduct of an employee in a disciplinary proceedings unlike in a criminal case where proof beyond reasonable doubt is a *sine qua non* for holding a person guilty of commission of an offence.

5. For the aforementioned reasons, we do not find any merit in these Writ Appeals which are accordingly dismissed.

C.V.NAGARJUNA REDDY, J.

GUDISEVA SHYAM PRASAD, J.

Date: 14-09-2017.

JSK

