

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.5692 of 2000

Date 10-07-2017

Between:

R.V.B Rao

... Petitioner.

And

Industrial Tribunal-cum-Labour Court,
Visakhapatnam and others.

... Respondents



THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.5692 of 2000

ORDER:

The driver-workman is before this Court challenging the order in I.D.No.224 of 1996 on the file of Industrial Tribunal-cum-Labour Court, Visakhapatnam.

2. The facts are not in dispute. The petitioner was working as a driver on permanent basis with effect from 15-02-1989. On 14-10-1989, an accident was occurred in which on account of the petitioner dashing with a stationery lorry on the highway. In the domestic enquiry, though petitioner took the plea that the accident was occurred on account of failure of the brakes. A finding was recorded by the Enquiry Officer that the accident occurred not on account of the failure of the brakes. During the domestic enquiry, it was also found that the petitioner tried to create mechanical defects in the braking system, which was found to be false. Taking into consideration of the accident and also the damage, a punishment of stoppage of two increments with cumulative effect imposed. Challenging the same, petitioner filed an appeal before the appellate authority, which also came to be dismissed. Thereafter the petitioner challenged the punishment in I.D.No.224/1996 before the Industrial Tribunal-cum-Labour Court, Visakhapatnam. The Industrial Tribunal-cum-Labour Court, vide order dated 16-06-1999, confirmed the punishment imposed by the respondents-authorities. Challenging the same, the present writ petition is filed.

3. Heard the learned counsel for the petitioner and Sri S.V. Ramana, learned Standing Counsel appearing for the respondents 2 & 3 – Corporation.

4. It is the specific contention of the learned counsel for the petitioner that while there is no dispute about the accident, the fact remains that in the entire service of the petitioner that was only an incident, when even as per the record and enquiry report, the accident was occurred at vee hours on 14-10-1989 i.e., at about 4:30 A.M., in the morning. It is also the contention of the petitioner's counsel that no professional driver would wantonly cause accident. Costs related to the repair and damage have been recorded from the petitioner's salary. Imposing punishment of stoppage of two increments with cumulative effect is excessive particularly considering the 27 years long service of the petitioner.

5. On the other hand, learned Standing Counsel for the respondents 2 & 3-APSRTC opposed the writ petition. He submitted that lenient view was taken by the disciplinary authority though in normal circumstances, the petitioner would have been visited with punishment of dismissal from the service.

6. Having considered the respective submissions, the facts not being in dispute it may be noted that, as rightly contended by the learned counsel for the petitioner, no professional driver would cause accident wantonly. The finding is that the accident occurred at 4:30 A.M., in the morning. That too, petitioner has hit a stationery vehicle. Though the defence taken by the petitioner may be a false defence, the same by itself cannot disentitle him from the authorities considering the gravity of the offence and charge alleged against him and imposing the punishment commensurate with the charge leveled and proved. The accident by any nature being something which is unexpected and unanticipated, the same cannot be basis for

imposition of a major penalty of the nature depriving the petitioner two increments with cumulative effect for all time to come which has cascading effect on his future earnings.

7. In that view of the matter, the lower Court has failed to exercise the jurisdiction under Section 11-A of the Industrial Disputes Act and failed to mitigate the grievance of the petitioner.

8. Though learned counsel for the respondents submits that the matter may either be remitted back to the disciplinary authority or to the lower Court for considering the quantum of punishment, this Court is not inclined to accede to the prayer of the respondents' counsel especially considering the fact that the petitioner is about to retire in the month of August/September. However, it may also be noted that this is a writ petition of the year 2000 and the I.D. before the lower Court is of the year 1996.

9. In that view of the matter, considering the submissions made by the learned counsel or the petitioner, the punishment imposed by the respondents-Corporation is modified to withholding of two increments without cumulative effect. However, it is made clear that the modification of the punishment shall only be for the purpose of computation of other retirement benefits.

10. Subject to the above, the writ petition is disposed of. No costs.

11. As a sequel, miscellaneous petitions, if any, pending in this writ petition, shall stand dismissed.

JUSTICE CHALLA KODANDA RAM

Date: 10-07-2017.

mrb

