

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.3542 OF 2011

Date: 03.07.2017

Between:

M.D.Raju, S/o Rama Raju, Aged 53 years,
Occu: Driver, E.No.512063, R/o Narayanapuram (V),
P.V.Puram (P), Sathyavedu (M), Chittoor District.

.....Petitioner

and

The Industrial Tribunal cum Labour Court,
Anantapur, rep.by its Chairman-cum-Presiding
Officer and another.

.....Respondents



The Court made the following:

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ORDER:

First petitioner was employed as Driver. On 01.08.2005, he was assigned duty on the route from Sathyavedu to Obularajukandriga. While first petitioner was driving the Bus, the Bus met with accident on 01.08.2005 at about 9.30 in the night, which resulted in fatal accident and pedestrian died. Disciplinary proceedings were initiated against the employee. On 08.08.2005, charge sheet was drawn containing two charges. Sum and substance of the allegation in the first charge is, petitioner caused accident resulting fatal accident, which constitutes misconduct; and sum and substance of the allegation in the second charge is, petitioner consumed alcohol while on duty, driven the vehicle and caused accident. Domestic enquiry was ordered. Enquiry Officer held the charges as proved. Based on the findings of the Enquiry Officer, Disciplinary Authority passed orders on 24.11.2005 imposing punishment of removal. The said punishment was affirmed by the appellate as well as revisional authorities. Aggrieved thereby, petitioner raised industrial dispute in I.D.No.92 of 2006 on the file of Industrial Tribunal-cum-Labour Court, Ananthapur. Labour Court rejected the claim and dismissed the petition. Aggrieved thereby, this writ petition is filed.

2. Heard Sri S.D.Gowd, learned counsel for petitioner, learned Government Pleader for Labour (AP) for respondent No.1 and Sri A.Rama Rao, learned standing counsel for APSRTC for respondent No.2.

3. Learned counsel for petitioners submits that illegally disciplinary action was initiated against the employee; there was no fault on his part which resulted in death of the pedestrian; it was only due to negligence of the pedestrian; he touched the moving Bus and fell under rear tyre of the Bus, causing fatal accident and driver cannot be expected to be cautious and careful against such kind of person. He further submits that first petitioner did not consume alcohol as alleged. First petitioner was suffering with skin disease and was taking Ayurvedic medicine for treatment. The Ayurvedic medicine contains alcohol component and that smell was treated as if first petitioner consumed alcohol. He further submits that no breath analyzing test was conducted to prove the consumption of alcohol.

4. All these contentions were urged before the Labour Court. Labour Court is vested with jurisdiction to adjudicate all aspects of service grievance of a workman vis-à-vis the employer. Labour Court is also competent to re-appreciate the evidence or take fresh evidence on the charges leveled. Reading of the award would disclose that Labour Court framed two issues for consideration; (1) whether enquiry was conducted against the principles of natural justice; and (2) whether the order of removal against petitioner was proportionate. Thus, the issues whether the disciplinary action was properly conducted and whether punishment imposed is proportionate were considered. Labour Court gone into the material brought on record by both sides.

5. Reading of paragraph-10 of the award would show that Medical Officer examined the employee and opined that employee

was under the influence of alcohol. Thus, allegation of drunkenness was proved. Labour Court rejected the contention of first petitioner that he was taking Ayurvedic medicine and accepted the report of the Medical Officer holding that first petitioner was under the influence of alcohol. Labour Court also observed that due to rash and negligent driving of the first petitioner, life of pedestrian was lost. The stand of the first petitioner that he was acquitted in criminal case on the allegation of rash and negligent driving was not accepted by the Labour Court. Thus, Labour Court considered all the contentions as urged herein and having recorded its findings on all issues, rejected the claim made by the first petitioner.

6. The jurisdiction of writ Court against the award passed by Labour Court is very limited. Court can only go into the issue of competency of Labour Court in passing an award and also to test whether Labour Court has appreciated the material on record and considered all the contentions urged. The award discloses that the material on record was considered. Having considered the contentions urged on behalf of the petitioner, the claim made before the Labour Court was rejected. This Court does not sit in appeal over the findings recorded by the Labour Court and re-appreciate the evidence available on record. I do not see any error in the decision arrived at by the Labour Court warranting interference by this Court in exercise of power of judicial review under Article 226 of the Constitution of India. Writ petition is accordingly dismissed.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

JUSTICE P.NAVEEN RAO

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