

HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

WRIT APPEAL No.1105 of 2017

Date: 08.08.2017

Between :

The Depot Manager, APSRTC,
Madhira Depot, Khammam District

... Appellant

And

Sri K.R. Goud and another.

... Respondents

COUNSEL FOR THE APPELLANT : Sri N. Vasudeva Reddy,
SC for TSRTC

COUNSEL FOR RESPONDENT No.1 : Sri Krishna Reddy Putta

COUNSEL FOR RESPONDENT No.2 : G.P. for Labour (TS)

THE COURT MADE THE FOLLOWING:

JUDGMENT : (per Hon'ble Sri Justice Gudiseva Shyam Prasad)

This Memorandum of Writ Appeal is filed by the A.P. State Road Transport Corporation against the order dated 14.03.2017 in W.P.No.28530 of 2007, whereby the learned single Judge has dismissed the writ petition, while confirming the Award dated 19.07.2006 in I.D.No.68 of 2004 passed by the 2nd respondent - Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad (for brevity "the Tribunal"), setting aside the order of removal passed by the Corporation and directing reinstatement of respondent No.1 - workman into service with attendant benefits, including full back wages.

2. The brief facts of the case are that the 1st respondent-workman was appointed as a Driver in the appellant-Corporation in the year 1997. On 09.10.1999, while he was driving the Bus bearing No.AP 9Z 8048 belonging to the Corporation and proceeding from Neredmet Cross-Roads to Dilsukhnagar and when the bus reached near Katta Maisamma Temple, Safilguda Tank Bund, it dashed against a Luna (Moped) as a result of which the rider of the Luna fell down and received severe head injuries. Immediately, he was shifted to Gandhi Hospital, where he succumbed to the injuries. The Senior Traffic Inspector recorded the statements of the crew and submitted report dated 20.10.1999, holding the 1st respondent-workman responsible for the accident.

Accordingly, a Charge Sheet was issued to the 1st respondent-workman on 28.10.1999, to which he has submitted his explanation denying the said charges. Having not been satisfied with the said explanation, an Enquiry Officer was appointed, who, after conducting a detailed enquiry, submitted his report holding the 1st respondent-workman guilty of the charges levelled against him. Accordingly, after issuing notice and considering his explanation, the services of the 1st respondent-workman was terminated vide proceedings dated 30.03.2000. Having been unsuccessful in the departmental appeal and review, the 1st respondent-workman preferred I.D.No.68 of 2004 before the Tribunal, which in turn, after considering the evidence and the material on record, passed Award dated 19.07.2006 in I.D.No.68 of 2004, directing reinstatement of the 1st respondent-workman into service with all attendant benefits, including full back wages.

3. Aggrieved by the said Award of the Tribunal, the Corporation has preferred W.P.No.28530 of 2007 before this Court. A learned single judge of this Court, through the impugned order dated 14.03.2017 in W.P.No.28530 of 2007, confirmed the Award dated 19.07.2006 in I.D.No.68 of 2004 passed by the Tribunal. Aggrieved by the said order, the appellant – Corporation has filed the present Writ Appeal.

4. Heard the arguments of Sri N. Vasudeva Reddy, learned Standing Counsel for the appellant – Corporation, as well as

Sri Krishna Reddy Putta, learned counsel for the 1st respondent-workman and the learned Government Pleader for Labour (TS) appearing for the 2nd respondent Tribunal. Perused the impugned order dated 14.03.2017 in W.P.No.28530 of 2007 of the learned single Judge and also the Award dated 19.07.2006 in I.D.No.68 of 2004 passed by the Tribunal.

5. Learned Standing Counsel for the appellant – Corporation vehemently contended that the 1st respondent-workman was responsible for causing the accident, which resulted in the death of the person travelling on Luna (Moped). On the other hand, learned counsel for the 1st respondent-workman sought to sustain the impugned order and the Award of the Tribunal.

6. It is to be seen that pursuant to the fatal accident, a criminal case was registered against the 1st respondent-workman, who is the driver of the offending bus, for his rash and negligent driving and the said criminal cases ended in acquittal. Aggrieved by the orders passed against him in the departmental enquiry, holding him guilty of the charges levelled against him, the 1st respondent-workman preferred I.D.No.68 of 2004 before the Tribunal and the learned Tribunal, after appreciating the evidence and the material available on record, passed Award dated 19.07.2006 in I.D.No.68 of 2004, directing reinstatement of the 1st

respondent-workman with all attendant benefits, including full back wages. As noted above, a learned single Judge of this Court dismissed the writ petition vide impugned order dated 14.03.2017 in W.P.No.28530 of 2007, thereby confirming the Award dated 19.07.2006 in I.D.No.68 of 2004 passed by the Tribunal.

7. The learned single Judge placed reliance on a decision of this Court rendered in *DIVISIONAL MANAGER, APSRTC v. E. RAJA REDDY*¹ and the judgment of the Apex Court in *FIRESTONE TYRE AND RUBBER COMPANY OF INDIA (P) LTD. v. MANAGEMENT*² and arrived at the conclusion that the Labour Court can re-appreciate the evidence recorded in the domestic enquiry and come to a different conclusion with regard to the charges framed against the workman.

8. It is to be noted that a learned single Judge of this Court in *E. RAJA REDDY*'s case (supra 1) and the apex Court in *FIRESTONE TYRE*'s case (supra 2) explained the scope of Section 11-A of the Industrial Disputes Act, 1947 with regard to the powers and jurisdiction of the Labour Court/Tribunal. The ratio laid down in the aforesaid decisions would clearly show that the Tribunal can re-appreciate the evidence in cases where the workman filed a Memo challenging the validity of the domestic enquiry.

¹ 1999 (5) ALT 450

² AIR 1973 SC 1227

9. In the instant case, as observed supra, the Tribunal, after re-appreciation of evidence on record, differed with the Enquiry Officer's Report and came to the right conclusion that the 1st respondent-workman was not negligent and the rider of the Luna alone was responsible for the accident and hence the report of the Enquiry Officer holding the 1st respondent-workman guilty is incorrect.

10. On consideration of facts and circumstances of the case, we are of the considered view that the learned single Judge has examined the case in proper perspective and confirmed the findings of the Labour Court that the deceased rider of the Luna Moped was in drunken condition at the time of the alleged accident and that the Senior Traffic Superintendent, who submitted his report holding the 1st respondent-workman responsible for the accident, has not drawn the rough sketch of the scene of accident to show that the workman was guilty of driving the bus in a wrong direction. The learned single Judge has also taken note of the finding of the Labour Court that as per the Circulars issued by the Head Office, if any vital accident occurred, two Depot Managers have to form as a Joint Action Committee and then submit report, but in the present case, no such report was submitted and that the criminal case registered against the 1st respondent-workman ended in acquittal. Thus, considering all these facts and entire evidence on record, the learned single Judge had concluded that the rider of the

Luna, who was in a drunken condition, was responsible for the accident and while so observing, he has rightly dismissed the writ petition, thereby confirming the Award dated 19.07.2006 in I.D.No.68 of 2004 passed by the Tribunal.

11. On a careful consideration of the material on record, we are of the considered view that no interference is required with regard to the findings recorded by the Labour Court, as confirmed by the learned single Judge.

12. In the light of the above, the Writ Appeal is devoid of merits and the same is accordingly dismissed. No order as to costs.

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



C.V. NAGARJUNA REDDY, J

GUDISEVA SHYAM PRASAD, J

08.08.2017.
Msr

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