

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.28999 OF 2013

ORDER:

Aggrieved by the Award dated 07.06.2012 passed in Industrial Dispute No.42 of 2010 by the Labour Court, Guntur, the present Writ Petition is filed by the petitioner-Corporation.

The facts, which led to filing of the present Writ Petition, are as under:

The workman by name G.V.Reddy performed duty as driver on route No.31 with bus No.AP-10Z-8229 on 16.01.2005. It was alleged that in the said trip, he caused an accident to a lady pedestrian by name Smt.Vunni Saraswathi at Government Hospital bus stop, Vijayawada, at about 1930 hours, due to which the said pedestrian received grievous injuries to her right leg and later succumbed to injuries while taking treatment at Government Hospital, Vijayawada. Basing on the said allegations, the workman was placed under suspension apart from issuing a charge sheet on 31.01.2005. The workman submitted his explanation denying the charges levelled in the charge sheet stating that he was not responsible for the said accident. After conducting an enquiry, the Enquiry Officer held the charges proved. The workman denied the enquiry report and submitted his objections to the said enquiry report. After considering the said objections, the Depot Manager, vide order dated 12.09.2005, awarded penalty of withholding an annual increment for a period of one year, which shall have the effect on his future increment. Challenging the same, the workman preferred an appeal before the Divisional Manager (City), Vijayawada, who by order dated 29.03.2006 rejected the appeal of

the workman. Thereafter, the workman preferred a review petition before the Regional Manager, Vijayawada, who, vide order dated 27.10.2006 dismissed the review petition. As against the accident alleged to have been caused by the workman, a criminal case in C.C.No.139/2005 was filed for an offence u/s.304-A IPC, wherein vide judgment dated 04.12.2007, the learned III Additional Chief Metropolitan Magistrate, Vijayawada, found the workman guilty for the said offence. As against the said conviction, the workman preferred an appeal, which was allowed by the Metropolitan Sessions Judge, Vijayawada, setting aside the conviction and sentence imposed on the workman. Thus, alleging that the punishment imposed is disproportionate, the workman, through Employees Union, filed I.D.No.42 of 2010 wherein, vide Award dated 07.06.2012, the Labour Court modified the punishment of deferment of annual increment for one year with cumulative effect to that of without cumulative effect. Challenging the same, present Writ Petition is filed by the Corporation.

Heard the learned Standing Counsel for the Corporation and perused the material on record.

The only question that arises for consideration of this Court is 'whether the punishment imposed on the workman is disproportionate to the offence alleged?'

It is to be seen that in the criminal case filed against the workman, though initially he was convicted by the trial Court but in appeal before the Appellate Court the same was set aside. The said finding of the Appellate Court remained unchallenged. As regards departmental proceedings, the Enquiry Officer held that

the charges levelled against the workman were proved. In the appeal as well as review petitions also, the case of the workman was not considered. While passing the impugned award, the Labour Court clearly held that the material on record disclosed that at the time of accident, the workman was not driving the bus in high speed and the bus was being driven at a speed of 20 kms. per hour. Considering the said circumstances, the Labour Court reduced the punishment imposed on the workman. In the absence of any evidence adduced by the Corporation to prove that the petitioner was driving the bus in a rash and negligent manner and in view of the acquittal by the Appellate Court in the criminal case registered for an offence punishable under Section 304-A IPC, this Court is of the view that the punishment imposed on the workman by the Labour Court, warrants no interference of this Court.

Accordingly, the Writ Petition is dismissed.

Miscellaneous Petitions pending in this petition, if any, shall stand closed. No order as to costs.

JUSTICE C. PRAVEEN KUMAR

27.04.2017
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