

***IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

***THE HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN**

and

***THE HON'BLE SRI JUSTICE M. GANGA RAO**

+Writ Appeal No.1795 of 2017

Between:

#The Depot Manager, Telangana State Road
Transport Corporation, Midhani Bus Depot, Hyderabad

... Appellant

Vs.

#S.K. Jani Miya, Driver, E.203602,
C/o The President/General Secretary, APSRTC
Transport Mazdoor Sangh, 3/10/68, RTC Colony,
Ramanthapur, Hyderabad and another

.. Respondents

! For Appellant

: Mr. N. Vasudeva Reddy,
standing counsel

^For Respondents

: G.P. for Labour (Telangana)

S.M. Subhan

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE SRI JUSTICE M. GANGA RAO

Writ Appeal No.1795 of 2017

ORDER: (V. Ramasubramanian, J)

Aggrieved by the award passed by the Labour Court setting aside the penalty of deferment of annual increments for two years with cumulative effect, the workman raised an Industrial Dispute. The Labour Court passed an award setting aside the penalty and the same was confirmed by the learned single Judge in a writ petition forcing the State Road Transport Corporation to come up with the above writ appeal.

2. Heard Mr. N. Vasudeva Reddy, learned counsel for the appellant. Mr. S.M. Subhan, learned counsel takes notice for the 1st respondent.

3. The first mistake committed by the Labour Court was that it did not go into the preliminary question whether the enquiry was fair and proper or not. However, the Labour Court came to the conclusion that the charge could not be held proved. This conclusion was reached by the Labour Court on two grounds namely: a) that if the charge of rash and negligent driving was proved, the 1st respondent should have been dismissed from service; and b) that the 1st respondent was acquitted in the criminal case.

4. Both the above reasons were completely flawed. Therefore, the award of the Labour Court actually required interference by the learned Judge.

5. But we cannot lose sight of the fact that the Labour Court had power to modify the penalty. Before the Labour Court, no oral evidence was let in, but only documents were filed. The statement of eye-witness for the accident was marked as Ex.M2. Therefore, this is not a case where the 1st respondent can be let off completely without any kind of penalty.

6. In view of the above, we deem it fit to modify the award of the Labour Court and the judgment of the learned single Judge.

7. Therefore, the writ appeal is allowed, the order of the learned single Judge and the award of the Labour Court is modified to the effect that the 1st respondent will be imposed with a penalty of deferment of only one increment with cumulative effect and not two increments. The management shall calculate the arrears arising out of this and pay the same to the 1st respondent within a period of eight (8) weeks from the date of receipt of a copy of the order.

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

V. RAMASUBRAMANIAN, J

M. GANGA RAO, J

Date: 06-12-2017

Ksn