

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT APPEAL No.1568 of 2017

26.10.2017

Between:

The Depot Manager,
Telangana State Road Transport Corporation (T.S.R.T.C.),
Vikarabad Depot, Ranga Reddy District

..Appellant

and

L.B.Mutyalu and another

..Respondents

Counsel for the appellant: Mr.N.Praveen Reddy, for Mr.N.Vasudeva Reddy,
standing counsel for T.S.R.T.C.

Counsel for respondent No.1: Mr.A.Thirupathi Reddy

Counsel for respondent No.2: Government Pleader for Labour (T.S.)

The Court made the following:



JUDGMENT: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This writ appeal arises out of order, dated 29.08.2016, in W.P.No.1694 of 2009, whereby the learned Single Judge has dismissed the said writ petition confirming award, dated 10.07.2008, in I.D.No.237 of 2004 on the file of the Labour Court-I, Hyderabad - respondent No.2.

2. We have heard Mr.N.Praveen Reddy, learned counsel representing Mr.N.Vasudeva Reddy, learned standing counsel for Telangana State Road Transport Corporation (T.S.R.T.C.) and Mr.A.Thirupathi Reddy, learned counsel for respondent No.1.

3. Respondent No.1 was charge sheeted for the accident resulting in death of 3½ years old girl on 05.12.2001, caused while he was on duty as Driver. A single charge was framed against him, which reads as under:

“For having driven the vehicle No.AP 10Z 526, negligently and with lack of anticipation without taking adequate precautionary measures in averting the accident on 05.12.2001 Narsing Function Hall, Allampally Road, Vikarabad town resulting injuries and death of one girl aged about 3½ years on the spot which constitutes serious misconduct under Regulation 28(ix)(a) of APSRTC Employees (Conduct) Regulations 1963.”

During the domestic enquiry, one Srinath, Superintendent (Traffic), Vikarabad and B.Ramulu, Service Conductor were examined. Based on the said evidence, the disciplinary authority passed an order on 27.04.2002 removing respondent No.1 from service. Respondent No.1, being unsuccessful in appeal and revision filed by him against his removal, raised an industrial dispute *viz.*, I.D.No.237 of 2004 before respondent No.2. By its award, dated 10.07.2008, respondent No.2

allowed the I.D. by holding that the findings of the enquiry officer that the accident occurred on account of negligence of respondent No.1 was not based on proper and acceptable evidence. While ordering reinstatement of respondent No.1, respondent No.2 awarded continuity of service with 50% backwages. Feeling aggrieved by this award, the appellant filed W.P.No.1694 of 2009. By order, dated 29.08.2016, the learned Single Judge has dismissed the said writ petition, while confirming the award of the Labour Court.

4. At the hearing, the learned counsel for the appellant has submitted that having held that the domestic enquiry was not held properly, the Labour Court ought not to have interfered with the findings of fact by the disciplinary authority.

5. Ordinarily, in a matter arising out of the disciplinary proceedings, the Courts would not sit as appellate bodies. While re-appreciation of evidence is not permissible, the Courts are, however, vested with the jurisdiction to examine whether the findings in the domestic enquiry are based on legal and acceptable evidence. In the instant case, while the Service Conductor did not speak to the alleged negligence of respondent No.1, the Superintendent (Traffic), Vikarabad deposed that after the accident occurred, he visited the spot and prepared a preliminary report and that as he did not observe any skid marks showing application of sudden brakes by respondent No.1, he formed an opinion that respondent No.1 has not acted in anticipation and averted the accident. In our view, the opinion expressed by the witness is presumptuous. He did not depose that he gathered evidence from the eyewitnesses, who

were present at the spot, in order to know whether the bus was being driven in a rash and negligent manner and respondent No.1 had enough time to anticipate the accident and apply brakes. Except the Superintendent and the Service Conductor, the appellant has not produced any other persons, who were eyewitnesses to the accident. Therefore, in our opinion, the findings of the enquiry officer are not based on proper evidence proving the guilt of respondent No.1, even by applying the preponderance of probabilities test. Indeed, though respondent No.1 would have been entitled to full backwages, the Labour Court awarded only 50% thereof. In our opinion, the Labour Court has rightly set aside the order of the disciplinary authority as confirmed in appeal and revision and the learned Single Judge has not committed any error in confirming the award of the Labour Court.

6. For the aforementioned reasons, we do not find any merit in this Writ Appeal and the same is, accordingly, dismissed.

7. As a sequel to dismissal of the Writ Appeal, W.A.M.P.No.2912 of 2017 filed by the appellant for interim relief shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

KONGARA VIJAYA LAKSHMI, J

26th October, 2017
GHN