

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.10882 of 2004

ORDER:

This writ petition is filed challenging the award dated 07.04.2003, passed by the Industrial Tribunal-II, Hyderabad, in I.D.No.24 of 2002.

Heard Sri K. Harinath, learned Standing Counsel for the petitioner-Corporation, Sri P. Venkateswara Rao, learned counsel for the 1st respondent-workman and learned Government Pleader for Labour.

It has been contended by the petitioner that the 1st respondent-workman was appointed as a driver and while he was discharging his duties, on 02.12.1997, he caused a fatal accident and after conducting the regular departmental enquiry, the disciplinary authority had imposed the punishment of removal of the petitioner on 15.9.1998. Thereafter, the 1st respondent-workman, had preferred an appeal before the Divisional Manager, A.P.S.R.T.C, Hyderabad and the same was rejected on 30.11.1998. The 1st respondent-workman had also preferred a Review before the Regional Manger which was also dismissed. Thereafter, the 1st respondent-workman, has filed the I.D.No.24 of 2002, under Section 2A(2) of the Industrial Disputes Act,1947 (for short, "the Act"). The Labour Court on 07.04.2003, passed an award in favour of the 1st respondent-workman, directing the petitioner to reinstate the 1st respondent-workman into service with continuity of service, attendant benefits and with 50% of the back wages, by setting aside the order of removal. Challenging the same, the present writ petition is filed.

It has been contended by the learned Standing Counsel for the petitioner-Corporation that the petitioner had caused a fatal accident and the Labour Court, had relied on the judgment dated 07.12.2001, passed by the Judicial I Class Magistrate, Special Mobile Court, Saroornagar, in C.C.No.334 of 2001, wherein the 1st respondent-workman, was acquitted and granted the relief to the 1st respondent-workman. Because of the misconduct of the 1st respondent-workman, the petitioner-Corporation had to pay compensation to the deceased victim and also loss of property. Apart from that, the award passed by the Labour Court in awarding back wages would mean that further loss was caused to the petitioner-Corporation. These aspects were not considered by the Labour Court and has simply relied upon the judgment dated 7.12.2001 of the Criminal Court in acquitting the 1st respondent-workman in C.C.No.334 of 2001, and granted the relief to the 1st respondent-workman.

Learned counsel appearing for the 1st respondent-workman, had contended that the Labour Court, has rightly considered the case and passed the award in favour of the 1st respondent-workman and further informed this Court that the 1st respondent-workman, was reinstated in pursuance of the said award passed by the Labour Court and during the pendency of the present writ petition, the 1st respondent-workman, had retired on 31.4.2012.

This Court having considered the rival submissions made by the parties, is of the considered view that as rightly contended by the learned Standing Counsel for the petitioner-Corporation, the Labour Court ought not to have granted 50% of the back wages while exercising its power under Section 11A of the Act and ends of

justice would be met, if the Labour Court, had granted 25% of the back wages to the 1st respondent-workman. By taking into consideration of the totality of the case, I find that the 1st respondent-workman had indulged in a fatal accident which resulted in the death of victim. Therefore, this writ petition is, disposed of modifying the award dated 7.4.2013, passed by the Labour Court in I.D.No.24 of 2002, only to the extent of 25% of back wages instead of 50% of back wages. Rest of the award dated 7.4.2013 of the Labour Court, is confirmed.

With these observations, the writ petition is disposed of. No order as to costs.

Sequel to disposal of the writ petition, Miscellaneous Petitions, if any pending, shall also stand closed.

Date:06.09.2018.
Gk.

ABHINAND KUMAR SHAVILI,J



HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI



Date:06.09.2018

Gk.

