

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.No.827 of 2008

ORDER:

Heard Sri B.Mayur Reddy, learned counsel for the petitioner.

Though notice is served on the 2nd respondent, none appears.

2. The petitioner/AP State Road Transport Corporation has filed this Writ Petition assailing the award dt.08-01-2007 in I.D.No.35 of 2002 of the Industrial Tribunal-cum-Labour Court, at Warangal.

3. The 2nd respondent was employed as a driver by the petitioner. On 29-04-1998, when he was driving a bus owned by the petitioner, an accident occurred in which a scooterist died when the bus was between Gudur and Bibinagar P.S., near Saket India Company Limited, at about 19-30 hours. The following charges were framed against him:

“CHARGES:

1. For having driven the Bus No.AP10Z 2396 while performing on the route Hanamkonda-Hyderabad on 29-04-1998 in a rash and negligent manner as a result of which the bus driven by you, has met with an accident with a scooter No.AP10J 5628 in between Gudur and Bibinagar, near Saketh India Co. Ltd., at about 19.30 hours, as a result of which the rider of scooter died on the spot and the pillion rider received of grievous injuries and shifted to MGM Hospital, Secunderabad, while undergoing treatment died in the hospital at about 02.00 hours on 30-04-1998, which amounts to serious misconduct under Reg.28 (ix) (a) of APSRTC Employees (Conduct) Reg. 1963.

2. For your lack of anticipation in driving the bus while performing duty with AP10Z 2396 on 29-04-1998 on

the route Hanamkonda-Hyderabad, as a result of which your bus has met with an accident with a scooter causing loss of 2 human lives, which amounts to a serious misconduct under Reg.28 (ix) (a) of APSRTC Employees (Conduct) Reg. 1963.”

4. Explanation was submitted by the 2nd respondent denying the charges. A disciplinary enquiry was ordered by appointing an Enquiry Officer. He held that 2nd respondent is guilty of the charges. Enquiry Report was submitted to 2nd respondent inviting his objections. After objections were filed, the petitioner passed an order imposing punishment of deferment of increment for the period of two years with cumulative effect.

5. Though appeal and review was filed by 2nd respondent against the said order, they were rejected on 31-08-1999 and 28-07-2000. Thereupon industrial dispute was raised by 2nd respondent and the following reference was made:

“Whether the action of the Depot Manager, APSRTC, Warangal-I in imposing the punishment of reduction of pay by two incremental stages for a period of two years with cumulative effect besides treating the suspension period as not on duty against Sri J.S.Rao, Driver, E-95965 is justified?

If not, to what relief the workman is entitled?”

6. It was numbered as I.D.No.35 of 2002 by 1st respondent.

7. It was contended by 2nd respondent before 1st respondent in the I.D. that the accident occurred due to rash and negligent driving of the scooterist resulting in the death of the driver as well as pillion rider of the scooter, and he was not at fault. He also stated that C.C.No.308 of 1998, in which he was shown as an accused, ended in

acquittal on 13-11-2000 as per the judgment rendered by the Additional Judicial First Class Magistrate, Bhongir. He contended that the punishment imposed on him is disproportionate to the alleged mis-conduct and prayed to set aside the same and to restore increments with all monetary benefits.

8. The petitioner filed a counter opposing the said claim petition. It contended that the 2nd respondent was an accident prone driver, and when he noticed the scooterist coming in opposite direction with high speed, he ought to have reduced the speed of his bus to avoid the accident. It contended that 2nd respondent failed to take necessary action and therefore, the punishment was warranted.

9. By award dt.08-01-2007, 1st respondent partly allowed the I.D. and reduced the punishment to reduction of pay by one incremental stage with cumulative effect.

10. Assailing the same, this Writ Petition is filed.

11. Learned counsel for the petitioner contended that the Tribunal ought not to have interfered with the quantum of punishment unless it is shockingly disproportionate and that no valid reasons have been given for interfering with the quantum of punishment.

12. A reading of the order of the 1st respondent indicates that 1st respondent accepted the contention of the 2nd respondent that the scooterist had driven the vehicle at the middle of the road during night time and contributed for the accident. It also accepted the statement of the Conductor that the scooterist drove the vehicle with speed and

dashed the bus and this was confirmed by a passenger who was examined as a witness in the enquiry. Admittedly, the other passengers refused to give statement. It also took note of the fact that in the Criminal Case, filed against the petitioner, the Court found that there was no material to connect the 2nd respondent with the offence and acquitted him. It opined that merely because two persons succumbed to the injuries, a severe punishment cannot be imposed against the 2nd respondent without any proof of rash and negligent driving on his part. It therefore reduced the quantum of punishment.

13. I am satisfied that the 1st respondent had correctly exercised its discretion under Section 11-A of the Act and took note of all the relevant circumstances while reducing the quantum of punishment to reducing of pay by one incremental stage with cumulative effect. The exercise of discretion by the 1st respondent cannot be said to be perverse or without valid reasons.

14. I therefore find no merit in the Writ Petition and is accordingly dismissed. No costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 06-03-2018

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