

HON' BLE SRI JUSTICE SURESH KUMAR KAIT
&
HON' BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.A. No. 911 of 2018

JUDGMENT:- (ORAL)

(Per Hon' ble Sri Justice Suresh Kumar Kait)

This writ appeal is preferred against the order dated 13.03.2018 in W.P.No. 7311 of 2010 passed by learned Single Judge of this Court, whereby the writ petition filed by the appellant, has been dismissed.

The brief facts of the case are that on 10.04.1992, while the appellant was driving the bus bearing No. AP9Z 949, a child was hit by the bus and the child succumbed to grave injuries. Consequently, a criminal case was registered against the appellant for the offence punishable under Section 304-A IPC, and simultaneously, disciplinary proceedings were initiated against the appellant alleging that he drove the bus in a rash and negligent manner with lack of anticipation resulting in fatal accident. The disciplinary action resulted in removal of service by order dated 03.09.1992. On appeal, the appellate authority, while holding the charge as valid, took lenient view on humanitarian grounds, and accordingly modified the punishment of removal by order dated 12.01.1993 to that of withholding of two annual increments with cumulative effect. Pursuant thereto, the appellant joined duty on 15.01.1993.

After five years, the appellant preferred revision petition, and the same was rejected in 1998. Two years thereafter, the appellant raised an industrial dispute in I.D.No. 33 of 2000, and the Industrial Tribunal-cum-Labour Court at Godavarikhani, dismissed the I.D. on the ground of delay in raising the dispute.

Being aggrieved by the award of the Labour Court, the appellant filed W.P.No. 7311 of 2010, the same was dismissed by learned Single Judge of this Court on 13.03.2018 recording that the appellate authority has exercised the appellate jurisdiction more on compassion and humanitarian grounds and imposed less severe punishment.

The learned counsel for the appellant has contended that the appellant was acquitted of the charged offence in the criminal case, therefore, the punishment imposed by the respondents is not proper, as such, the present appeal deserves to be allowed.

The settled position of law is that mere acquittal of criminal case is not a ground to seek nullifying the departmental proceedings. The nature of evidence required in departmental proceedings is based on the principle of preponderance of probabilities to establish a charge and the conduct of employee. The bus driver of the Corporation is

expected to be very alert in performing his duties and any amount of negligence can result in fatal accident.

In addition to the above, admittedly, the appellate authority, while modifying the punishment from removal to withholding of two annual increments with cumulative effect, reinstated the appellant into service on 12.01.1993. Thereafter, the appellant never challenged the said order and accepted the same. After five years of his joining, he filed revision petition and the same was dismissed in 1998. Two years thereafter, he filed I.D.No. 33 of 2000 which was dismissed by the Labour Court, and subsequently, he could not succeed in the writ petition. The final punishment imposed on the appellant was on 12.01.1993. Now, we have entered in 2018 i.e. 25 years have already passed to challenge the order of punishment dated 12.01.1993.

In view of the facts recorded above, we see no ground to interfere with the well-reasoned order passed by the learned Single Judge.

Hence, the writ appeal of devoid of merit and the same is dismissed on the ground of delay and latches. No order as to costs.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

SURESH KUMAR KAIT, J

06.07.2018

ABHINAND KUMAR SHAVILI, J

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