

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.4722 of 2008

ORDER:

Heard learned counsel for the petitioner and learned counsel for the first respondent.

2. The first respondent was appointed as casual driver on daily wage basis on 13.05.1985 and subsequently his services were regularized with effect from 09.04.1986. On 22.05.2001, while he was conducting bus bearing No.AP-10-Z-8462, an accident took place at Ravipadu Village and he hit the stationed oil tanker on the back portion resulting in 12 passengers sustaining severe injuries and causing damage to Hi-tech bus. An enquiry was conducted and ultimately the first respondent was removed from service by an order, dated 22.11.2001. His appeal was rejected on 30.07.2002 and Review Petition also rejected on 23.09.2002. Thereafter, the first respondent filed I.D.No.78 of 2003 and the Labour Court allowed the said dispute by passing an Award dated 09.03.2007, by setting aside the order of removal and reinstating the first respondent into service with continuity of service and all consequential benefits, except back wages. Challenging the same, the present Writ Petition was filed by the Corporation.

3. Learned counsel for the petitioner submits that the Award of Labour Court is vitiated by an error apparent on the face of the record, whereas learned counsel appearing for the first respondent submits that the Labour Court took into consideration all the circumstances of the case and passed the Award.

4. The charge levelled against the first respondent reads as follows:

“For having driven the vehicle AP 10Z 8432 (Hi-tech) of CPT Depot in a rash and negligent manner with lack of anticipation thus met with an accident duly hitting a stabled Oil Tanker No.MP09-K 7595 on 22.5.2001 at about 22-45 Hrs. near Ravipadu Village on the route CPT to HYD resulting in 12 passengers sustained injuries due to hitting of the bus on the back portion of the oil tanker, besides caused damaged to the Hi-tech bus. It is seen that the accident which also tarnished the image of the Corporation same it is Hi-tech service. This constitutes misconduct under Reg.28 (ix) (a) of APSRTC Employees (Conduct) Reg.1963.”

5. The first respondent took a defence before the Labour Court that he was not at all responsible for the accident as the vehicle was being driven at slow speed, but the opposite lorry came in the night with lights on, which resulted in hitting the stationed oil tanker on the road. Though he applied breaks, the vehicle skidded forward and hit the tanker. The Labour Court passed an order on 02.11.2006 holding that domestic enquiry was valid and binding on both the parties. In those circumstances, Exs.M.1 to M.30 were marked on behalf of the petitioner herein and the Labour Court framed the following issues.

- “1) Whether the charge framed against the petitioner is proved or not?
- 2) Whether the punishment of removal is proportionate or disproportionate?
- 3) To what relief?”

6. The Labour Court on the basis of evidence, noticed that the first respondent applied breaks and he was proceeding slowly and accordingly held that the findings recorded by the Enquiry Officer

were not based on the material evidence and thus, issue No.1 was answered in favour of the first respondent herein. Though Labour Court noticed that the first respondent was entitled for reinstatement as a consequence of holding issue No.1, the Award was passed directing reinstatement with continuity of service and all consequential benefits, except back wages. Challenging the award, the present Writ Petition is filed. This Court cannot re-appreciate the evidence and hold that the findings recorded by the Enquiry Officer were valid. No material was placed before this Court to come to a different conclusion. It is now submitted by both the counsel that the first respondent retired from service, but his terminal benefits were not properly settled in view of pendency of writ petition.

7. In view of the same, the Writ Petition is dismissed as a consequence and the petitioner shall settle the terminal benefits payable to the first respondent. Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO, J

JANUARY 02, 2018

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Date: 02.01.2018

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