

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.14583 OF 2010

Dated:06.03.2018

Between:

T. Somaiah, S/o. Mallaiah,
Aged about 55 years, Occ: Ex-Driver,
R/o. Kuntapalli Village, Mandal
Sangam, District Warangal

.. Petitioner

And

The Hon'ble Industrial Tribunal-cum-
Labour Court, Warangal, rep., by its
Presiding Officer and another

.. Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO**WRIT PETITION No.14583 OF 2010****ORDER:**

Heard learned counsel for the petitioner and learned standing counsel for the 2nd respondent – Corporation.

2. Petitioner was working as Driver in the respondent – Corporation. Petitioner was served with charge memo containing four charges. It was alleged that he consumed alcohol and found in intoxicated condition while on duty on 06.06.2002 at about 1440 hours; having hit the tractor at Narasampet on 06.06.2002, absconded from duty and from the spot of incident; caused inconvenience to the traveling public and caused detention of vehicle at Narsampet enroute; and did not hand over the log sheet to the conductor or any official and absconded from the enroute service duty. In the domestic enquiry, the charges were held proved and based on the findings of the enquiry, the petitioner was removed from service by order dated 21.03.2003. Against the order of removal, the petitioner raised industrial dispute before the Industrial Tribunal-cum-Labour Court in I.D.No.43 of 2008. On thorough analysis of the material on record, the Labour Court affirmed the decision of the disciplinary authority in imposing punishment. The Labour Court noticed that the conductor in his spot explanation stated that the driver was in intoxicated condition and dashed a tractor near Narsampet. The conductor further stated that as the passengers insisted him to stop the vehicle, the driver stopped the bus and absconded from duty. The conductor also deposed that the driver did not hand over the log sheet and

though the passengers called him, he went away from the place. The passengers also deposed against the driver. The Labour Court noticed that the petitioner failed to establish animosity between the petitioner and the conductor of the bus as well as the passengers to discredit the deposition given by them.

3. It is not in dispute that the petitioner was not available at the scene of incident and his whereabouts were not known at that point of time. In paragraph No.5 of the affidavit filed in support of the Writ Petition, he states that he developed illness and reported line sick and by informing the conductor about the same, he left the place to avail medical aid. This itself would substantiate that the petitioner was not available at the scene of incident.

4. On going through the record and the award passed by the Labour Court, I do not see any perversity on the findings arrived at by the Labour Court warranting interference.

5. Learned counsel for the petitioner sought to contend that the Labour Court has erred in not deciding the validity of the domestic enquiry as preliminary issue and on that ground alone, the award of the Labour Court must be set aside. Though no such pleading is raised by the petitioner in the affidavit filed in support of the Writ Petition, to test the contention, the docket proceedings of the Labour Court are seen. As seen from the docket proceedings of the Labour Court dated 27.01.2009 Labour Court recorded that learned counsel for the petitioner filed a memo not disputing the domestic enquiry. In view of this statement made by learned counsel for the petitioner, it was not necessary for the Labour Court to go into the issue of validity of the domestic enquiry and

therefore the Labour Court has rightly gone into merits of the allegations made and rejected the petition filed under Section 2-A (2) of the Industrial Disputes Act, 1947.

6. I see no merit in the Writ Petition. The Writ Petition is accordingly dismissed. There shall be no order as to costs.

Miscellaneous Petitions, if any, filed in this Writ Petition shall stand closed.

P. NAVEEN RAO, J

Date:06.03.2018

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