

THE HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.969 OF 2007

DATED : 23.01.2020

Between :

B. Raju S/o.Late B.Laxmaiah,
Aged about 56 yrs, Occu : Driver,
E.No.5966, Kushaiguda Depot,
R/o.H.No.15-12-276/11, Manikeswara Nagar,
Osmania University, Hyderabad.

.....Petitioner

And

The Presiding Officer,
Industrial Tribunal-II, Hyderabad & others.

.....Respondents



The Court made the following:

THE HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.969 OF 2007

ORDER:

Heard learned counsel for the petitioner and learned Standing Counsel for the respondent-Corporation.

2. Petitioner was appointed as driver in the respondent-Corporation, in the year 1976. On the allegation of rash and negligent driving which resulted in death of a six years old girl, disciplinary proceedings were initiated leveling two charges against him. The disciplinary proceedings resulted in imposing punishment of removal from service. The appeal preferred against the removal order was also confirmed by the appellate authority. Petitioner raised industrial dispute in I.D.No.46 of 2005 before the Industrial Tribunal-II, Hyderabad (for short 'the Tribunal'). By Award dated 12.12.2005, the Tribunal granted the relief to the extent of setting aside the order of removal and directed reinstatement of petitioner into service without back wages, but with continuity of service and all other attendant benefits. The Tribunal further directed the respondent-Corporation to defer two annual increments of the petitioner with cumulative effect for the proved misconduct. Not satisfied with the relief granted by the Tribunal, showing his greediness to get more relief, even though due to his rash and negligent driving, caused death of a girl child, instituted this writ petition, praying to grant back wages and also to declare the punishment imposed as illegal.

3. The jurisdiction of Writ Court against Award passed by the Tribunal is limited to the extent of consideration of Award on the

question of jurisdiction and glaring illegality in the decision made by the Tribunal. The Writ Court cannot sit in appeal and re-evaluate the evidence on record to come to a different conclusion from one arrived at by the Tribunal.

4. From the Award passed by the Tribunal, it is seen that the Tribunal was convinced with the disciplinary action taken against the petitioner, on the allegation of his rash and negligent driving resulting in death of a girl child. The Tribunal holds that petitioner was negligent and careless in driving the vehicle and causing accident.

5. It is appropriate to note the observations of the Tribunal :

“...I am convinced with the contention of the law officer that the petitioner without observing the said girl started the bus and that left front tyre and left rear side tyre of the bus run over the said deceased resulting in her spot death. Even though the conductor gave signal to the driver to start the bus, it is his duty to observe the surrounding and then start the vehicle. It is not desirable to expect the road rules or traffic sense from a child of six years but it was the duty of the driver to take note all the surroundings before keeping the vehicle in motion and the said aspects clearly go to show that on account of negligence and also carelessness on the part of the petitioner/driver, the said accident occurred resulting in death of the deceased girl. When the petitioner clearly admitted in the said preliminary enquiry that he found pieces of brain material of the said girl on the front left side mud-guard and rubber his subsequent version that the deceased came underneath the left side rear side tyre of the bus could not be appreciated and I am also convinced that to get over of the disciplinary action against him, the petitioner/driver changed his version and it shows his malafides and also guilty consciousness. Under the rules framed under Motor Vehicles Act it is the duty of the petitioner to report about the accident to concerned Police irrespective of his responsibility or otherwise. But there are no circumstances in this case that the petitioner reported about the said accident to police. Not reporting about the accident by the petitioner to concerned police is also an important circumstances against his control. As seen from Ex.W1 judgment of the Criminal Court, the grand mother were at the city bus stand and that RTC bus came from behind and hit her grand daughter. Where the vehicle

comes and hits the deceased from her behind, the interference is that driver was negligent in driving the vehicle at the relevant time.....”

6. Having regard to the above, I do not see any error in the decision arrived at by the Tribunal and the discretion exercised by it in granting the relief to petitioner and directing imposing of punishment of deferment of two annual grade increments. The Tribunal having found the petitioner guilty of the allegations leveled against him, interfered with the quantum of punishment imposed. Since, delinquency is established and punishment is imposed, petitioner is not entitled to claim back wages. Writ Petition merits no consideration. It is accordingly dismissed. Pending miscellaneous petitions, if any, shall stand closed.

23rd January, 2020

Rds

P.NAVEEN RAO,J

