

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 812 of 2021

Date : 25.2.2021

Between:

Telangana State Road Transport Corporation and 2 Others
Rep by its Managing Director Musheerabad Hyderabad

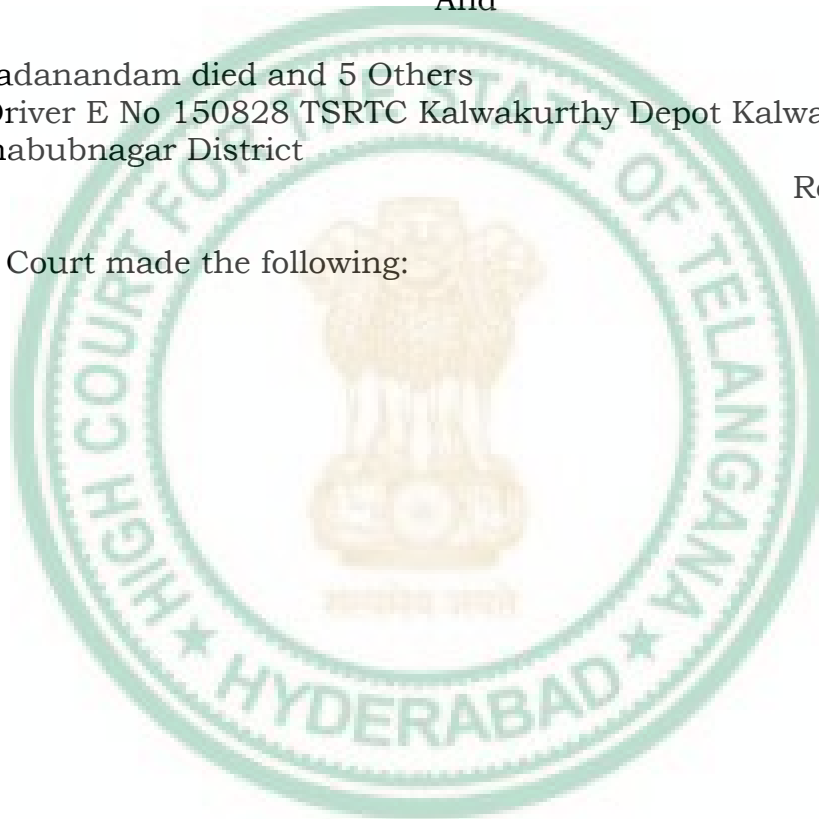
Petitioner

And

G Sadanandam died and 5 Others
ExDriver E No 150828 TSRTC Kalwakurthy Depot Kalwakurthy
Mahabubnagar District

Respondents

The Court made the following:



THE HON'BLE SRI JUSTICE P. NAVEEN RAO**WRIT PETITION NO. 812 OF 2021****ORAL ORDER:**

Heard learned standing for counsel for petitioner corporation and none appeared for the respondents.

2. Late Sri G.Sadanandam was employed as driver in the petitioner corporation. On the allegation that he was unauthorisedly absent from duty for 5 days from 5.10.2014 to 11.10.2014 disciplinary proceedings were initiated resulting in imposing punishment of removal from service by order dated 30.12.2014. The appeal preferred by the employee was rejected by order dated 3.11.2015. Aggrieved by the order of removal from service, the employee raised industrial dispute before the Labour Court-III Hyderabad and the same was registered as I.D.No. 35 of 2016.

3. The Labour Court by its award dated 21.7.2020 set aside the order of removal dated 30.12.2014 and issued directions to pay all terminal benefits to the legal heirs who are petitioners 2 to 5 in the Industrial Dispute and directed to pay the backwages till the death of the delinquent employee.

3.1 The Labour Court noticed that disciplinary authority did not follow the procedure required to conduct domestic enquiry and denied opportunity of hearing to the delinquent employee. From paragraphs

9 to 11 of the award, it is seen that delinquent employee submitted sick/fit certificate issued by the Medical Officer of the petitioner corporation dispensary marked as Ex.M-9 and the said certificate discloses that delinquent employee was sick from 5.10.2014 to 30.11.2014 and was fit to resume duty on 1.12.2014. The Labour Court found fault with the Enquiry Officer in not considering the sick certificate marked on behalf of the delinquent employee as Ex.M-9 and that there was no discussion about the sick certificate. The Labour Court also noticed that enquiry sitting was held and report was submitted on the same day i.e., 1.12.2014, which would clearly disclose denial of reasonable opportunity to delinquent employee. The Labour Court observed that the Enquiry Officer relied upon documents which were not part of the record of enquiry and were not supplied to the delinquent employee to hold that delinquent employee was most irregular and negligent to his duties, was unproductive and was stating all lies in the enquiry. The Labour Court noticed that during the domestic enquiry, delinquent employee was not given opportunity to cross-examine witness Mr Bhaskar, ADC and not even recorded his statement in the presence of the delinquent employee. The Labour Court further observed that none of these deficiencies in conducting enquiry by the Enquiry Officer were noticed by the disciplinary authority but mechanically proceeded to impose the punishment. The Labour Court also observed that the punishment of removal is highly excessive and disproportionate to the alleged misconduct.

4. Thus, the Labour Court has made detailed assessment of the evidence on record and concluded that the enquiry was not properly conducted; that delinquent employee was denied reasonable opportunity to defend himself and that Enquiry Officer failed to take note of the documents on record, whereas, he has taken note of the documents which were not marked in the enquiry and which were not supplied to the delinquent employee. The said findings of the Labour Court go to the root of the matter and vitiates the entire disciplinary action taken against the delinquent employee by the petitioner corporation.

5. Except for making vague statement that every opportunity was afforded to the delinquent employee and that delinquent employee failed to submit explanation to the charge sheet and to the show cause notice before imposing the punishment of removal, they have not explained how the conclusions arrived at by the Labour Court are erroneous warranting interference by this Court.

6. Disciplinary action was initiated against the delinquent employee on the allegation that he was unauthorisedly absent for six days from 5.10.2014 to 11.10.2014. From the charge memo, it is seen that the allegation against the delinquent employee is confined to absence for six days only and there was no allegation of prior misconduct of similar nature or the work and performance of the delinquent employee was unproductive, as sought to be emphasized by the Enquiry Officer.

7. Per se, on the allegation of unauthorized absence for six days, imposing punishment of removal from service is excessive and disproportionate. Further, the Labour Court observed that the delinquent employee submitted medical certificate issued by the Medical Officer of petitioner corporation marked as Ex.9 in the domestic enquiry. The correctness of the said certificate and the claim of the delinquent employee about his sickness was not probed into. Thus, per se, it cannot be said that absence of petitioner was deliberate and willful in order to impose grave punishment of removal on the allegation of absence from duty for six days. No doubt, absence of a driver for six days would certainly cause inconvenience to the employer in organizing its fleet of buses on various routes, more particularly, when people commute from place to place by availing the bus services provided by the petitioner corporation, however, that does not per se result in imposing such harsh punishment.

8. In exercise of discretion vested in the Labour Court under Section 11-A of the Industrial Disputes Act, the Labour Court has rightly come to the conclusion that punishment imposed is excessive and disproportionate to the delinquency alleged and proved and sets aside the punishment. Having regard to the fact that the delinquent employee died by the time the Industrial Dispute was decided, no other punishment was imposed by the Labour Court and ordered for payment of terminal benefits to the legal heirs.

9. In the peculiar facts of this case, I therefore, see no error in the conclusions recorded by the Labour Court and the award passed thereon, warranting interference in exercise of power of judicial review. The writ petition merits no consideration and is accordingly dismissed. No costs. Miscellaneous petitions, if any pending, shall stand closed.

P.NAVEEN RAO,J

Date: 25.01.2021
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108

THE HON'BLE SRI JUSTICE P. NAVEEN RAO**WRIT PETITION NO. 812 OF 2021**

Date: 25.1.2021