

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**TUESDAY, THE FOURTH DAY OF APRIL
TWO THOUSAND AND TWENTY THREE**

PRESENT

**THE HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
THE HONOURABLE SRI JUSTICE PULLA KARTHIK**

WRIT APPEAL NO: 412 OF 2023

Writ Appeal under clause 15 of the Letters Patent preferred against the order dated 06-06-2022 passed in WP No 12182 of 2004 on the file of the High Court.

Between:

The Depot Manager, TSRTC, (Prior to bifurcation known as APSRTC)
Hyderabad - II Depot, Dilsukhnagar, Hyderabad.

...APPELLANT/RESPONDENT NO.2

AND

1. M.Damodar, S/o. M.Ramaiah, Aged about 40 years, R/o. Siva Reddygudem Village, Indriyal (P), Pochampally Mandal, Nalgonda District.

...RESPONDENT/WRIT PETITIONER

2. The Hon'ble Labour Court-I, Hyderabad Rep.by its Presiding Officer,

...RESPONDENT/RESPONDENT

IA NO: 2 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant stay of all further proceedings pursuant to the Order of the learned single Judge passed in WP No.12182/2004 dated 06.06.2022. pending disposal of W.A No. /2022 and pass such other order or orders as this Hon'ble Court may deem fit and proper in the interest of justice

Counsel for the Appellant: SRI THOOM SRINIVAS SC FOR TSRTC

Counsel for the Respondent No.1: SRI G. RAVI MOHAN

Counsel for the Respondent No.2: GP FOR LABOUR

The Court made the following: JUDGMENT

**THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
THE HON'BLE SRI JUSTICE PULLA KARTHIK**

WRIT APPEAL No.412 OF 2023

JUDGMENT: (per AKS.J)

This Writ Appeal is filed aggrieved by the order, dated 06.06.2022, passed in W.P.No.12182 of 2004 by a learned Single Judge of this Court.

2. Heard Sri Thoom Srinivas, learned Standing Counsel for TSRTC, appearing for the appellant and Sri G. Ravi Mohan, learned counsel appearing for the respondent No.1.

3. Learned Standing Counsel appearing for the appellant had contended that the respondent No.1 was working as a Driver with the appellant. On 22.03.1992, while he was driving the bus, he has indulged in a fatal accident. The disciplinary authority, having considered the same as a misconduct and after conducting a detailed enquiry, imposed punishment of removal from service *vide* order, dated 03.11.1992. Aggrieved by the said order of removal, the respondent No.1 had unsuccessfully preferred appeal and later revision. Thereafter, challenging the said removal order, dated 03.11.1992, the

respondent No.1 approached the Labour Court-I, Hyderabad (for short, 'the Labour Court'), by filing I.D.No.43 of 1996, under Section 2-A(2) of the Industrial Disputes Act, 1947, and the Labour Court, *vide* Award, dated 17.01.2001, held that the charges levelled against the respondent No.1 were proved, but, however, interfered with the punishment of removal from service on the ground of proportionality and modified the same to that of withholding of three annual increments with cumulative effect and denied grant of back-wages and attendant benefits. The Labour Court further directed the appellant to reinstate the respondent No.1 into service with continuity of service. Aggrieved by the said order passed by the Labour Court to the extent of imposing punishment of stoppage of three annual increments with cumulative effect and denying grant of back-wages and attendant benefits, the respondent No.1 approached this Court by filing W.P.No.12182 of 2004 and a learned Single Judge of this Court, *vide* order, dated 06.06.2022, was pleased to set aside the modified punishment as imposed by the Labour Court and directed the appellant to pay all consequential benefits to the respondent No.1 with interest at 6% thereon from the date of removal from service

till the date of payment, without appreciating any of the contentions raised by the appellant.

4. Learned Standing Counsel appearing for the appellant had further contended that the present appeal is filed by the appellant aggrieved by the grant of back-wages only. In respect of the merits of the case is concerned, the respondent No.1 was removed from service on 03.11.1992, and till 1996 he has not pursued his remedies at all. It is only in the year 1996, the respondent No.1 has approached the Tribunal by filing I.D.No.43 of 1996. Further, the learned Single Judge of this Court has re-appreciated the evidence again and came to a conclusion that the charges levelled against the respondent No.1 could not be proved, and on that ground, it has set aside the modified punishment imposed by the Labour Court and granted all consequential benefits to the respondent No.1 with interest at 6% thereon from the date of removal till the date of payment. When there is delay of five years on the part of the respondent No.1 in approaching the Courts, the learned Single Judge was not justified in granting back-wages from the date of removal from service till the date of payment. Further, no material was placed by the respondent No.1 to demonstrate

that he was not gainfully employed during the out-of-employment period i.e. from the year 1992 to the year 2001, and without there being any basis, the learned Single Judge has granted full back-wages and attendant benefits along with 6% interest. Learned Standing Counsel further contended that the respondent No.1 was reinstated into service on 14.04.2001 pursuant to the Award passed by the Labour Court and he had retired from service on attaining the age of superannuation. Therefore, appropriate orders be passed in the Writ Appeal by setting aside that portion of the impugned order wherein the learned Single Judge has granted all consequential benefits with interest at 6% thereon from the date of removal till the date of payment.

5. On the other hand, learned counsel appearing for the respondent No.1 had contended that the learned Single Judge was justified in allowing the Writ Petition preferred by the respondent No.1 by relying on the findings recorded by the Tribunal that the accident had occurred because of the uneven road. The learned Single Judge has rightly interfered with the modified punishment of withholding of three annual increments and was pleased to set aside the same and grant all

consequential benefits. Learned counsel for the respondent No.1, in principle, contended that since the respondent No.1 has preferred the I.D. in the year 1996, at least 50% of the back-wages should be granted from the date of approaching the Tribunal till the respondent No.1 was reinstated into service, and the rest of the order passed by the learned Single Judge may be confirmed by taking into account the fact that the respondent No.1 has retired from service and he is a retired employee.

6. This Court, having considered the rival submissions made by the learned counsel for the parties, is of the view that ends of justice would be met if the impugned order passed by the learned Single Judge is modified with regard to grant of consequential benefits and interest thereon. Therefore, the consequential benefits granted by the learned Single Judge is modified to that of grant of 50% of the back-wages from the day on which the respondent No.1 has approached the Tribunal by filing I.D.No.43 of 1996 till the date he was reinstated into service i.e. on 14.04.2001. Further, the interest at 6% granted by the learned Single Judge is set aside. Since respondent No.1 has already retired from service, at this point of time, we are

not inclined to interfere with the rest of the terms of the impugned order passed by the learned Single Judge of this Court and they are accordingly confirmed. Further, it is made clear that we are passing this order only to give a quietus to this long pending litigation, which was pending since more than three decades before the Courts.

7. With the above observations/directions, the Writ Appeal is disposed of.

Miscellaneous Applications, if any, pending in this Writ Appeal, shall stand closed.

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SD/- M. MANJULA
DEPUTY REGISTRAR
Go
SECTION OFFICER

To,

1. The Presiding Officer, Hon'ble Labour Court-I, Hyderabad
2. One CC to SRI. THOOM SRINIVAS, SC FOR TSRTC [OPUC]
3. One CC to SRI. G RAVI MOHAN Advocate [OPUC]
4. Two CCs to GP FOR LABOUR, High Court for the State of Telangana at Hyderabad [OUT]
5. Two CD Copies

KKS
GJP



HIGH COURT

DATED:04/04/2023

JUDGMENT

WA.No.412 of 2023



**DISPOSING OF THE WA
WITHOUT COSTS**

*(2) mss
10/5/2023*