HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF JUNE, 2025

BEFORE

THE HON'BLE MR JUSTICE ANANT RAMANATH HEGDE

WRIT PETITION NO. 50495 OF 2018 (L-KSRTC)

BETWEEN:

KARNATAKA STATE ROAD
TRANSPORT CORPORATION
KOLAR DIVISION, KOLAR
BY ITS DIVISIONAL CONTROLLER
REP BY ITS CHIEF LAW OFFICER

...PETITIONER

(BY SRI. RENUKA H R., ADVOCATE)

AND:

GUNDURAYA
S/O BABU RAO
AGED ABOUT 40 YEARS,
NO.10 SURAYNAGAR
SADAM ROAD,
KALABURGI-585101

...RESPONDENT

(BY SRI.L. SHEKAR., ADVOCATE)

Digitally signed by C HONNUR SAB
Location: HIGH COURT OF KARNATAKA

THIS WP IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE JUDGMENT DATED 16.12.2017 IN I.D. NO. 3/2015 PASSED BY THE PRL. DISTRICT AND SESSIONS JUDGE AND PRESIDING OFFICER, LABOUR COURT, KOLAR (ANNEX-H) IN SO FAR AS IT RELATES TO PAYMENT OF BACKWAGES.

THIS PETITION, COMING ON FOR FINAL HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE ANANT RAMANATH HEGDE

ORAL ORDER

This petition is filed assailing the award dated 16.12.2017 in I.D.No.3/2015 on the file of the Principal District and the Presiding Officer, Labour Court at Kolar (for short 'Labour Court').

2. The petitioner-Corporation has assailed the part of the award, awarding backwages in favour of the respondent. The award reinstating the respondent by setting aside the penalty of dismissal is not questioned.

3. The brief facts that are noticed from the records are as under:

Respondent was employed as a driver under the petitioner-Corporation in the year 2005. It is stated that on 06.05.2013 when the respondent was driving the bus from Jalahalli to Bengaluru, caused an accident and the two wheeler rider coming from the opposite side died in the said

accident. On 30.08.2013, the petitioner-Corporation issued a show cause notice against the respondent-driver alleging rash and negligent driving. The respondent submitted his reply to the show cause notice and disciplinary enquiry was held and the petitioner-Corporation found the respondent guilty and dismissed him from service after following the other procedures governing disciplinary enquiry.

4. Aggrieved by the penalty of dismissal, the respondent raised Industrial dispute. The Labour Court has set aside the penalty of dismissal and passed an award for reinstatement and also directed for payment of full backwages.

5. Learned counsel appearing for the petitioner would submit that the award directing reinstatement is not questioned and the same is accepted, however, the order for payment of full backwages is fully unjustified and it is submitted that principle of 'no work no pay' would apply in this case and the respondent did not work from 03.01.2015 to 16.12.2017.

6. It is submitted that the sketch produced in the disciplinary enquiry would reveal that the respondent-Driver had an opportunity to take the bus to the extreme left side to avoid the accident and the location of the bus in the said spot sketch would reveal that the bus was at the centre and the driver also contributed for the accident. It is further contended by the learned counsel for the petitioner that the legal representatives of the deceased-bike rider filed a claim petition claiming compensation. The Motor Vehicles Claims Tribunal has given a finding that the driver of KSRTC bus was rash and negligent and awarded compensation against the Corporation. Thus, it is urged that the driver's negligence in driving is very much established and the Labour Court has not taken into consideration the compensation awarded compensation against the Corporation. For these reasons the Corporation contends that the award for payment of full backwages for the period during which the driver has not worked is wholly unjustified.

7. Learned counsel for the respondent-driver on the other hand would submit that the sketch marked as Ex.R5

before the Labour Court itself would reveal that the bus was not on the middle of the road when the accident took place. It is further submitted that the rider of the bike was drunk and he was rash and negligent and he came on his right side and dashed against the bus which resulted in the accident despite the respondent-Driver doing his best to avoid accident. It is also submitted that before the Tribunal, the Driver was not made a party and finding of negligence by the Motor Vehicles Claims Tribunal cannot be held against him as he is not a party to the proceedings.

8. This Court has considered the contentions raised at the bar and perused the records.

9. The accident is not in dispute. It is a collision between the KSRTC bus and the motor bike. Ex.R5 is the Spot Sketch prepared by the police. It would reveal that the accident has taken place couple of feet away from the road hump, and the bus which was proceeding towards Sindanur had crossed the road hump. On the left side of the bus, little space i.e. around 3 feet space is found on the mud road to

the left of the bus. However, on the right side of the bus i.e., from the front right wheel, a space of 21 feet is found. It is also noticed that width of the tar road is around 30 feet.

10. Admittedly, bike was proceeding from Sindanur towards Maski. As can be seen from the sketch, around 21 feet space was available for the rider of the bike on his left. However, the rider of the bike has gone on far too right side of the road. Since the sketch is not in dispute, this Court has to conclude that the driver of the bus was not negligent.

11. Despite the material being available, in support of driver, the Corporation has erroneously concluded that the driver of the bus was negligent and has imposed penalty of dismissal.

12. This Court is of the view that the finding that the driver of the bus was negligent itself is unacceptable given the evidence placed on record. Having dismissed the driver from service for no fault of the driver, it is not open for the Corporation to raise a contention that *'no work no pay'* principle should be adopted in denying the backwages.

13. The contention that the Corporation had to pay compensation on account of accident is not a ground to deny backwages in case the driver is not at fault. It is relevant to note that in the claim petition filed before the Claims Tribunal the driver was not made a party. It is for this reason the award passed by the Motor vehicles claims Tribunal is not binding on the driver in so far as the finding relating to negligence.

14. It is also brought to the notice of this Court that respondent-employee was made party in the claim petition before the claims tribunal. However, later on the memo filed by the petitioner in the said petition, the claim petition is dismissed as against the driver. KSRTC has not examined the driver and later entered into settlement to pay the compensation. Under these circumstances, the Court cannot hold that the tribunal has given a finding that the driver of the bus was negligent and responsible in causing the accident. As already noticed above, this Court does not find any material to hold the driver of the bus was negligent and responsible for the accident.

15. For the aforementioned reasons, the Corporation cannot contend that the backwages is to be denied to the driver. As already noticed the driver was not at all responsible in causing the accident. The undisputed sketch prepared at the spot of accident conclusively establishes that the rider of the bike alone is responsible for the accident.

16. Having considered the reasons assigned by the Tribunal, this Court does not find any reason to interfere with the award passed by the Tribunal moreso, in a petition under Article 227 of the Constitution of India.

17. Accordingly, the Writ Petition is ***dismissed***.

18. The order shall be complied within two months from the date of the receipt of certified copy of this order.

Sd/-
(ANANT RAMANATH HEGDE)
JUDGE

GVP/KLY
List No.: 1 Sl No.: 20