

(2014) 06 AP CK 0204
In the Andhra Pradesh High Court
Case No : W.A. No. 572 of 2014

A.P.S.R.T.C.

APPELLANT

Vs

Syed Meer and Others

RESPONDENT

Date of Decision : 04-06-2014

Acts Referred:

Constitution of India, 1950 — Article 226 — Motor Vehicles Act, 1988 - Section 185

Citation : (2015) 3 ALD 218

Hon'ble Judges : L.N. Reddy, J;Challa Kodanda Ram, J.

Bench : Division Bench

Advocate : Kallakuri Srinivasa Rao, S.C., for the Appellant; P. Govinda Rajulu, for the Respondent

Final Decision : Disposed off

Judgement

L.N. Reddy, J.?The deceased-1st respondent was employed as Driver in APSRTC in the year 1974. On 7.11.1997, he was entrusted with the duty to drive the service between Nirmal and Kinwath. On the return journey, when the bus stopped at Boath Bus Stand, a passenger complained to the police, alleging that the 1st respondent was in a drunken condition. It is stated that he was taken to the nearby hospital and on finding that he was in a drunken condition, Crime No. 31 of 1997 under Section 185 of the Motor Vehicles Act, was registered. The case came to be tried as CC No. 95 of 1997 by the Court of Judicial First Class Magistrate, Boath. Departmental proceedings were initiated against the 1st respondent alleging acts of misconduct. Charge-sheet was issued on 8.5.1997 and since the 1st respondent filed an explanation denying the charges, departmental enquiry was conducted. In his report, dated 25.7.1997, the Enquiry Officer held that the charges framed against the 1st respondent, are proved. Taking the report into account, the competent authority i.e. the appellant, passed an order, dated 22.10.1997, removing the petitioner from service. After exhausting the departmental remedies, the 1st respondent filed ID No. 39 of 1998 before the Industrial Tribunal-cum-Labour Court, Godavarikhani. Through

its award, dated 2.3.2001, the Labour Court refused to grant any relief to the 1st respondent.

2. The 1st respondent filed WP No. 17661 of 2001 challenging the award passed by the Labour Court. During the pendency of the writ petition, the 1st respondent died and his legal representatives, being respondents 2 to 7, were brought on record. A learned Single Judge of this Court allowed the writ petition, through order, dated 29.10.2013, setting aside the order of removal and directing that the 1st respondent shall be deemed to be in service from the date of suspension till the date of superannuation. Relief of back wages also was granted in favour of respondents 2 to 7. Hence, this writ appeal.

3. Heard Sri K. Srinivasa Rao, learned Counsel for the appellant, and Sri P. Govinda Rajulu, learned Counsel for the respondents.

4. On the allegation that the 1st respondent was in a drunken condition while on duty, departmental proceedings, on the one hand, and the proceedings before the Criminal Court, on the other hand, were initiated. In the departmental enquiry, the charges framed against the 1st respondent were held proved. CC No. 95 of 1997, however, ended in acquittal. The Labour Court did take into account the fact that the 1st respondent was acquitted in CC No. 95 of 1997, but upheld the findings in the domestic enquiry.

5. It may be true that the acquittal of an employee in a criminal case would certainly be a relevant factor to be taken into account, in the departmental proceedings. However, much would depend upon the similarity of the charges in both the sets of proceedings as well as the evidence that is required to prove the charges. It hardly makes any mention that the standard of proof required in a criminal case is substantially different from the one that is needed to prove a charge in departmental proceedings. Added to that, the fact that some of the witnesses in a criminal case turned hostile, and the acquittal is the result thereof, would certainly become relevant, in the context of assessing the conduct of the employee.

6. It is only when the criminal Court gives a clear finding to the effect that the charge framed against an accused is not proved, and the charge that is framed in the departmental proceedings is identical; that the result in the criminal case can be taken with a bit of seriousness. In the instant case, the acquittal of the 1st respondent in the criminal case was mostly on the ground that some of the witnesses turned hostile. A further observation was made to the effect that the 1st respondent was not subjected to blood and urine test, notwithstanding the fact that the Doctor who examined the 1st respondent deposed that he found him to be in drunken condition. We have undertaken this discussion only to drive home the point that the findings recorded by the Labour Court are far from giving a clean acquittal to the 1st respondent.

7. Notwithstanding the nature of disposal given by the Criminal Court in CC No. 95 of 1997, we cannot ignore the fact that the same standard of proof cannot be

insisted in the departmental proceedings. The Enquiry Officer took into account, the oral and documentary evidence before him and found that the 1st respondent was in a drunken condition, while on duty. The Labour Court has also found that the domestic enquiry did not suffer from any procedural irregularity. On merits also, it agreed with the findings recorded by the Enquiry Officer.

8. It is only when the findings recorded by a Labour Court are found to be perverse or not based on any evidence whatever, that this Court can consider the feasibility of arriving at a different conclusion. The interference with the award, on a question of fact, in a proceeding under Article 226 of the Constitution of India, is a rare phenomenon. Further, the learned Single Judge has set aside the findings of the Enquiry Officer as well as the Labour Court, only on the ground that the 1st respondent was not subjected to urine and blood test. At the most, the said requirement may hold good in a criminal case, that too, if a provision of law mandates such a requirement. We are not inclined to agree with the conclusion of the learned Single Judge that the findings of the Enquiry Officer and the Labour Court are vitiated, on account of the fact that the 1st respondent was not subjected to blood and urine test. We, therefore, set aside the judgment under appeal.

9. One fact, which, however, impresses us is that the 1st respondent had put in long service with the Corporation, spread over 22 years and had fairly a large family to maintain. Unfortunately, he died even when the writ petition was pending, but after attaining the age of superannuation. We are of the view that ends of justice would be met, if the appellant is required to extend all the death-cum-retirement benefits to respondents 2 to 7 and to pay a further sum of Rs. 50,000/-.

10. The writ appeal is accordingly allowed, setting aside the judgment under appeal, but directing that the appellant shall pay all the death-cum-retirement benefits of the 1st respondent to respondents 2 to 7 and a further sum of Rs. 50,000/- (Rupees fifty thousand only) within two months from the date of receipt of a copy of this order. There shall be no order as to costs. The miscellaneous petition filed in this writ appeal shall also stand disposed of.