

(2013) 09 KAR CK 0028

In the Karnataka High Court

Case No : Writ Petition No. 31764 of 2013 (L-KSRTC)

Bommegowda

APPELLANT

Vs

The Divisional Controller, Karnataka State Road Transport
Corporation, Hassan Division

RESPONDENT

Date of Decision : 05-09-2013

Acts Referred:

Citation : (2014) 3 AKR 108 : (2014) 2 KarLJ 434

Hon'ble Judges : Ram Mohan Reddy, J

Bench : Single Bench

Judgement

Ram Mohan Reddy, J.—Petitioner-driver in the respondent-Road Transport Corporation when alleged to have driven the Vehicle No. KA.01.F.409 on route Bangalore Bus Station to Yelahanka on 21-7-1999 in a rash and negligent manner resulting in a woman passenger slipping and falling out of the bus at the place of alighting, succumbing to head injuries, led to disciplinary proceeding by issuing an article of charge. The explanation offered was one of denial, whence the Disciplinary Authority imposed the punishment of reducing three incremental stages permanently and the period of suspension to be treated as not on duty for proved misconduct, by order dated 13-12-2000. That order when subject-matter of conciliation proceeding under the Industrial Disputes Act, 1947 led to a failure report, and the State Government referred the industrial dispute for adjudication to the Industrial Tribunal, Mysore, registered as Reference No. 29 of 2004, by order dated 20-1-2004. To the claim statement filed by the petitioner arraigned as first party therein, the respondent-Corporation on notice, arraigned as second party, filed counter-statement denying the allegations and pointing to the fact that the petitioner drove the vehicle in a rash and negligent manner, as a result of which, an innocent lady passenger succumbed to injuries by falling out of the Bus. It appears that the Trial Court framed issues over validity of the domestic enquiry where afterwards, one witness for the respondent-Corporation was examined as M.W. 1 and marked 24 documents while the petitioner was examined as W.W. 1 and did not mark documents. The Industrial Tribunal, by

order dated 8-2-2011, held the issue over validity of the domestic enquiry in the affirmative i.e., the enquiry was fair and proper. There afterwards, petitioner was further examined as W.W. 1 over the pleading of victimization.

2. The Labour Court, having regard to the material on record, declined to accept the plea of the petitioner that his acquittal by the Criminal Court much later i.e., after the order was passed by the Disciplinary Authority, did not have a bearing on the decision making, in other words, that by the acquittal, petitioner was not entitled to an order setting aside the order imposing punishment, in the light of the opinion of this Court in *M. Ravindran Vs. The Management of Bharat Electronics Limited*, , as also the decision in *State Bank of Bikaner and Jaipur Vs. Nemi Chand Nalwaya*, . The fact that the Criminal Court acquitted the respondent by reason of benefit of doubt, subsequent to imposition of punishment in the disciplinary proceeding and regard being had to the degree of proof in a criminal proceeding being that of strict proof of evidence, while in the departmental enquiry, it is one of preponderance of probability, the acquittal by the Criminal Court cannot have a bearing on the findings on the charges in the domestic enquiry.

3. The Labour Court further observed that the petitioner drove the bus in a rash and negligent manner resulting in a passenger travelling in the Bus, at the place of alighting fell off the bus and succumbed to grievous injury. That finding of fact is supported by the material on record, more appropriately, the report Ex. M. 3 of the Assistant Traffic Superintendent. This finding of fact cannot be said to be either perverse or irrational, much less arbitrary. There is no dispute that the petitioner was issued with a Drivers licence by the Regional Transport Officer under the Motor Vehicles Act, 1988, to drive transport vehicles. The duties and conduct of drivers of transport vehicles are provided in Rule 13 of the Karnataka Motor Vehicles Rules, 1989. One of the duties is that the driver shall not, when bringing the vehicle to rest for the purpose of picking up or setting down any passenger at or near the place where another vehicle is at rest for the same purpose, drive the vehicle so as to endanger, inconvenience or interfere with the driver or the conductor of the other vehicle or any person mounting or preparing to mount thereon or alighting therefrom, and shall bring the vehicle to rest in front or behind the other vehicle and on the left-hand side of the road or place and shall draw it up as near the kerb as possible; in other words, the driver of a transport vehicle must demonstrate due circumspection while driving a public transport vehicle and ensure that the passengers alight from the Bus safely. Safety, therefore, is the word of caution for every driver of a public transport vehicle. Petitioner, not shown diligence, in the matter of safety led to the woman passenger, alighting from the Bus to fall off and succumb to grievous injuries.

In my considered opinion, in exercise of supervisory jurisdiction under Article 227 of the Constitution of India not being a Court of appeal, cannot reappreciate and reevaluate the evidence on record. The conclusions arrived at by the Labour Court in the award impugned do not call for interference.

Petition devoid of merit, is rejected.