

(2024) 10 TEL CK 1193
In the Telangana High Court
Case No : Writ Appeal No.1232 Of 2024

Regional Manager

APPELLANT

Vs

P. Janardhan

RESPONDENT

Date of Decision : 29-10-2024

Acts Referred:

Citation : (2024) 10 TEL CK 1193

Hon'ble Judges : C.V.Bhaskar Reddy, J

Bench : Division Bench

Advocate : Government Pleader

Final Decision : Disposed Of

Judgement

Abhinand Kumar Shavili, J

1. This Writ Appeal is filed aggrieved by the order, dated 05.10.2023, passed in W.P.No.5394 of 2010 by a learned Single Judge of this Court.
2. Heard Sri A. Srinivas Reddy, learned Standing Counsel for TSRTC, appearing for the appellants and Sri V. Narasimha Goud, learned counsel for the respondent.
3. Learned Standing Counsel appearing for the appellants had contended that the respondent was appointed as a Driver with the appellants during the year 1997. On 29.04.2000, while the respondent was driving the bus, he was involved in a fatal accident, resulting in the death of an eight years old girl. The disciplinary authority, construing the same as misconduct, initiated departmental proceedings against the respondent and for the proven misconduct, has imposed the punishment of removal from service on the respondent vide proceedings, dated 09.02.2001. A criminal case i.e. C.C.No.393 of 2000 on the file of learned Judicial Magistrate of First Class, Andole at Jogipet, was also registered against the respondent and the learned Magistrate has convicted the respondent and sentenced him to suffer imprisonment for six months. Aggrieved by the same, the respondent has preferred Criminal Appeal No.26 of 2002 on the file of

learned III Additional Sessions Judge (FTC), Medak, and the appellate Court has acquitted the respondent on the ground of benefit of doubt vide judgment, dated 20.02.2004. After acquittal in the criminal case, the respondent has submitted a review petition to review the removal order. Even before the review petition could be adjudicated, the respondent has approached the Labour Court-II, Hyderabad, by filing I.D.No.132 of 2004, under Section 2A(2) of the Industrial Disputes Act, 1947 (for short, 'the Act'), and the Labour Court vide Award, dated 16.11.2006, was pleased to set aside the order of removal, dated 09.02.2001, and directed the appellants to reinstate the respondent into service with continuity of service, however, without back-wages.

4. Aggrieved by the Award, dated 16.11.2006, passed by the Labour Court, to the extent of denying back-wages, the respondent has approached this Court by filing the subject Writ Petition and the learned Single Judge of this Court was pleased to partly allow the subject Writ Petition vide impugned order, dated 05.10.2023, and directed the appellants to pay 50% of the back-wages to the respondent, without appreciating any of the contentions raised by the appellants.

5. Learned Standing Counsel appearing for the appellants had further contended that the Labour Court has observed that the respondent was initially convicted by the competent criminal Court and sentenced to suffer imprisonment for six months and later, he was acquitted by the appellate Court on the ground of benefit of doubt. The Labour Court, in exercise of its powers conferred under Section 11A of the Act, has rightly denied back-wages to the respondent. But, this fact was not properly appreciated by the learned Single Judge and the learned Single has awarded 50% of the back-wages. As the respondent was facing conviction from the year 2001 to 2004, the question of granting back-wages would not arise. Therefore, appropriate orders be passed in the Writ Appeal by setting aside the impugned order, dated 05.10.2023, and allow the Writ Appeal.

6. On the other hand, learned counsel for the respondent had contended that the learned Single Judge has taken into account the judgment rendered by the Honourable Supreme Court in *Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya (D.Ed.)* (2013) 10 SCC 324, wherein it was held that the Courts must always keep in view that in cases of wrongful/illegal termination of service, the wrongdoer is the employer and sufferer is the employee/workman and there is no justification to give premium to the employer of his wrongdoings by relieving him of the burden to pay to the employee/workman his dues in the form of full back wages. Admittedly, in the instant case, the appellants have removed the respondent from service without there being any basis. The Labour Court has set aside the findings of the Enquiry Officer taking into account the findings of the criminal Court and held that the removal order, dated 09.02.2001, is vitiated. Therefore, the learned Single Judge ought to have awarded full back-wages, instead of confining the back-wages to 50%. Learned counsel for the respondent, in support of his submissions, had relied upon the judgment of the

7. and contended that the Honourable Supreme Court has given a direction to reinstate the appellant therein with all consequential benefits and awarded 50% of the back-wages. In the said case, the Honourable Supreme Court had an occasion to deal with the effect of acquittal in a criminal case and its consequences and the Honourable Supreme Court has held that once an employee was removed or dismissed from service based upon the departmental enquiry and on the very same facts and charges, if the criminal Court acquits an employee, then his case deserves to be considered for reinstatement into service. Therefore, the learned Single Judge has rightly awarded 50% of the back-wages. Hence, there are no merits in the Writ Appeal and the same is liable to be dismissed.

8. This Court, having considered the rival submissions made by the learned counsel for the parties, is of the considered view that the Labour Court has given specific reasons for denying back-wages. The Labour Court had recorded a finding that the respondent was acquitted by the criminal Court on the very same set of facts and therefore, the removal order, dated 09.02.2001, is vitiated, and accordingly, has set aside the removal order, dated 09.02.2001. In respect of back-wages, the Labour Court has held that the judgment in criminal appeal reveals that the prosecution failed to produce proper evidence and as such, the respondent was acquitted on the ground of benefit of doubt, and therefore, it is not proper to order back-wages. Therefore, the Labour Court has rightly denied back-wages to the respondent. The learned Single Judge failed to appreciate the fact that the respondent was facing conviction from the year 2001 to 2004. When the Labour Court has denied back-wages with cogent reasons and as admittedly, the respondent was facing conviction from the year 2001 to 2004 and that the respondent has submitted an application to review the removal order only in the year 2004, on his acquittal, the question of extending back-wages to the respondent would not arise. Therefore, the learned Single Judge erred in awarding 50% of the back-wages to the respondent.

9. Further, in Ram Lal's case (supra 2), relied on by the learned counsel for the respondent, the consequences of acquittal in criminal case were dealt with. Admittedly, in the instant case, the benefit of judgment in Ram Lal's case (supra 2) was already extended to the respondent and incidentally, the Honourable Supreme Court has granted 50% of the back-wages to the appellant therein. In Ram Lal's case (supra 2), back-wages is not the legal issue, which was adjudicated. In the instant case, the respondent was facing conviction from the year 2001 to 2004. When a person is facing conviction, the question of awarding 50% of the back-wages would not arise.

10. Further, in Deepali Gundu Surwase's case (supra 1), relied on by the learned counsel for the respondent, the Honourable Supreme Court has held that

whenever the removal order is wrongful or illegal, then the question of extending full back-wages would be considered. In the instant case, the removal of the respondent cannot be considered as wrongful or illegal. The disciplinary authority has imposed the punishment of removal from service on the respondent for the proven misconduct in the enquiry and the respondent was also convicted by the competent criminal Court and sentenced to suffer imprisonment for six months. It is only in the Criminal Appeal, the respondent was acquitted on the ground of benefit of doubt. Therefore, the learned Single Judge was not justified in awarding 50% of the back-wages. Therefore, the order of the learned Single Judge is liable to be set aside.

11. Accordingly, the Writ Appeal is allowed and the order, dated 05.10.2023, passed in W.P.No.5394 of 2010 by the learned Single Judge of this Court, is set aside. There shall be no order as to costs.

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