

HIGH COURT FOR THE STATE OF TELANGANA

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W.P.No.45675 of 2016

Between:

T.Ramulu

.....Petitioner

And

TSRTC, rep. by its Managing Director and three others

.....Respondents

JUDGMENT PRONOUNCED ON : 26.02.2024

HON'BLE SMT. JUSTICE JUVVADI SRIDEVI

1. Whether Reporters of Local newspapers : Yes/No  
may be allowed to see the Judgment ?
2. Whether the copies of judgment may be : Yes/No  
marked to Law Reporters/Journals ?
3. Whether Their Ladyship/ Lordship wish to : Yes/No  
see the fair copy of the judgment ?

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JUVVADI SRIDEVI, J

HON'BLE SMT. JUSTICE JUVVADI SRIDEVI

W.P.No.45675 of 2016

DATE: 26.02.2024

**Between :**

T.Ramulu

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.....Respondents

For petitioner : Mr. V.Narasimha Goud, Advocate

For Respondents : Mr. R.Anurag representing  
Mr. Thoom Srinivas, learned Standing Counsel for TSRTC.

< Gist:

> Head Note:

? CITATIONS:

(2012) 5 SCC 242

(2018) 3 ALT 325

**THE HON'BLE SMT. JUSTICE JUVVADI SRIDEVI****WRIT PETITION No.45675 of 2016****ORDER :**

Petitioner has questioned the order of removal dated 09.11.2009 passed by the disciplinary authority as well as the order dated 15.02.2010 passed by the revisional authority directing to reinstate him as a fresh Driver.

2. Heard both sides and perused the record.
3. Petitioner was appointed as a Driver in the respondents-Corporation in the year 1996 on regular basis. A charge sheet was issued to him on 22.06.2009 to the effect that on 08.05.2009 at about 07.30 p.m. he caused an accident while driving the Corporation bus bearing No.AP-28Z-1781, causing severe injuries to a pedestrian, which resulted in his death. Petitioner has submitted his explanation to the said charge and having not satisfied with the same, an inquiry was ordered into the incident. The statement of the petitioner was recorded in the inquiry proceedings and after recording the statements of the service conductor and also the Assistant Manager who conducted the preliminary inquiry, the Inquiry Officer has submitted his report holding the petitioner to be responsible for the accident. Basing on the said inquiry report, the disciplinary authority has passed an order dated 09.11.2009 removing the petitioner

from service. The appeal filed by him was also dismissed, whereupon, he has filed a revision and the revisional authority, by order dated 15.02.2010, while holding that the order of removal as well as rejection of appeal passed by the earlier authorities were proper and justified, has taken a lenient view on humanitarian grounds, set aside the orders of removal and directed for reinstatement of petitioner as a fresh Driver on certain terms and conditions. Case of the petitioner is that the accident was the result of the pedestrian suddenly coming on to the road to stop the bus without knowing that it is an Express Service and in the process, the pedestrian dashed in the middle of the bus and that there was no negligence on his part and inspite of the same, he was made responsible. Hence, he prayed to set aside the order of removal as well as the order of revisional authority to appoint him as a fresh Driver.

4. Respondents have filed counter-affidavit denying the contention of petitioner that he was appointed as a Driver in the year 1996 on regular basis. It is stated that petitioner was initially appointed as a Casual Driver and his services were initially terminated on 28.04.1999 as he had involved in a fatal accident, however, vide orders of Labour Court, he was reinstated into service as a Casual Driver. Coming to the present incident, it is stated in the counter-affidavit that on 08.05.2009, the petitioner drove the bus in a rash and negligent manner and caused a fatal accident by

dashing against a pedestrian, who died on the way to hospital. Therefore, a charge sheet was issued to him on 22.06.2009, for which, the petitioner had submitted his explanation. Thereafter, an inquiry was ordered and the statement of the petitioner was recorded. Thereafter, a show cause notice of removal was issued to the petitioner on 09.10.2009, for which, he had submitted his explanation on 03.11.2009 and after considering the same, his services were terminated by order dated 09.11.2009. The appeal filed by the petitioner was dismissed on merits and in the revision filed by him, the revisional authority, solely on humanitarian grounds, directed for reinstatement of petitioner as a fresh Driver. Thus, it is the case of the respondents that though the order of removal was found to be correct, merely on humanitarian grounds the revisional authority has ordered for reinstatement of petitioner as a fresh Driver. It is further stated in the counter-affidavit that on being reinstated, the petitioner had joined duty on 03.03.2010 by agreeing to the terms and conditions imposed by the revisional authority, however, six years thereafter i.e., on 26.12.2016, he came up with this writ petition challenging the orders of punishment, which is not permissible. Accordingly, they prayed for dismissal of the writ petition.

5. The service of the petitioner with the respondents-Corporation as a Driver and the accident that occurred is not in dispute. Petitioner

contends that the accident was the result of the pedestrian suddenly coming on to the road with an intent to stop the bus, whereas, the respondents contend that the petitioner had failed to anticipate that the pedestrian would dash to the bus and he drove the bus in a rash and negligent manner resulting in the accident and the subsequent death of the pedestrian on the way to hospital. The inquiry conducted and the petitioner's participation therein is also not in dispute. The only grievance of the petitioner is that he was not responsible for the accident, which was the result of the pedestrian suddenly coming on to the road. It is to be noted that while driving any vehicle on roads especially when handling a heavy vehicle like bus, the Driver must be cautious and patient as there will always be a scope for the smaller vehicles, pedestrians or animals coming on to the roads for various reasons and they must handle the bus carefully to avoid any collusion with them. Coming to the defence of the petitioner that the accident was caused due to the sudden crossing of road by the pedestrian, it is to be seen that had he been cautious and at a low speed, he could have controlled the vehicle and avoided the accident, for which, they are trained. For his lack of anticipation, he cannot blame the pedestrian for the accident, as no pedestrian would want to die by dashing against a bus.

6. The other contention of petitioner is that the punishment imposed by the revisional authority i.e., reinstatement of the petitioner as a fresh Driver, is not prescribed in the Regulations, and therefore, the same cannot be imposed. In this connection, he has relied on the judgment of the Hon'ble Supreme Court in *Vijay Singh v. State of Uttar Pradesh and others*<sup>1</sup> and on another judgment of this Court in *Smt. S. Mariamma v. APSRTC, rep, by its Vice Chairman and Managing Director, Hyderabad and others*<sup>2</sup>. In both these judgments, it is held that the disciplinary authority cannot impose the punishment which is not stipulated/prescribed under the Rules/Regulations. To the same effect, though the petitioner has relied on some other judgments, the same need not be narrated since it is well settled principle of law that the punishments which are not prescribed under the Rules/Regulations cannot be imposed. However, it is to be seen that after the orders of revisional authority to appoint the petitioner as a fresh Driver, he had joined duty on 03.03.2010 without any challenge to the said order and it has been challenged only by way of this writ petition filed on 26.12.2016 i.e., after a lapse of 6 years. The only reason assigned by the petitioner for such delay is due to suffering with family worries, which is not tenable.

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<sup>1</sup> (2012) 5 SCC 242

<sup>2</sup> (2018) 3 ALT 325

7. In the aforesaid set of circumstances, since much time has lapsed, this Court is of the considered view that instead of setting aside the order passed by the revisional authority, interests of justice would be met if continuity of service is granted to the petitioner.

8. Accordingly, the order dated 15.02.2010 passed by the revisional authority is modified and the out of service period from the date of removal to the date of reinstatement shall be treated as continuous service for all purposes and the petitioner is entitled for difference of salary as per Rules.

9. With the above directions, the writ petition is disposed of. There shall be no order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

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**JUVVADI SRIDEVI, J**

Date: 26.02.2024

N.B:

L.R. copy be marked.

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