IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 29TH DAY OF JANUARY, 2025

BEFORE

THE HON'BLE MR JUSTICE R.NATARAJ

WRIT PETITION NO.204751 OF 2016 (L-KSRTC)

BETWEEN:

1. THE MANAGING DIRECTOR,
   NEKRTC, SARIGE SADAN,
   MAIN ROAD, KALABURAGI,
   REP.BY ITS CHIEF LAW OFFICER.

2. THE DIVISIONAL CONTROLLER,
   NEKRTC, RAICHUR DIVISION,
   RAICHUR, REP.BY CHIEF LAW OFFICER.

...PETITIONERS

(BY SMT. RATNA N. SHIVAYOGIMATH, ADVOCATE)

AND:

Digitally signed by SACHIN
Location: High Court Of Karnataka

SURESH S/O HANAMANTH,
AGED ABOUT 46 YEARS, OCC: NIL,
R/O CHINCHARAGIBVIA HATTI,
DIST: RAICHUR-584116.

...RESPONDENT

(BY SRI. NITESH PADIYAL, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT OR ORDER OR DIRECTION WRIT IN THE NATURE OF CERTIORARI QUASHING THE IMPUGNED ORDER

DATED 13.12.2010 PASSED BY THE PRESIDING OFFICER LABOUR COURT, GULBARGA IN K.I.D. NO.53/2008 VIDE ANNEXURE-B.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE R.NATARAJ

ORAL ORDER

The State Road Transport Corporation has filed this petition challenging an award passed by the Labour Court, Kalaburagi in KID No.53/2008 dated 13.12.2010 by which it set-aside the order of the disciplinary authority and directed reinstatement of the respondent without back-wages.

2. The respondent was a trainee-driver and while driving the bus on 15.09.2007 from Bengaluru to Sindhanur, it dashed against a truck bearing Reg.No.KA-01/A-3964. As a result of the accident, 5 passengers died and 10 passengers were seriously injured. A disciplinary proceeding was initiated against the respondent by issuing

a show-cause notice dated 16.11.2007. The respondent replied which was found to be not satisfactory. Therefore, the Divisional Traffic Officer was appointed as an Enquiry Officer to conduct an enquiry and submit a report. An enquiry was conducted and a report was submitted. The disciplinary authority after serving a copy of the report of the enquiry and after considering the cause shown by the respondent, passed an order dated 03.03.2001 removing the respondent from the select list of trainee drivers and directed recovery of one month remuneration.

3. Being aggrieved by the order of dismissal, the respondent filed a claim petition under Section 10(4-A) of the Industrial Disputes Act. The Labour Court held that the enquiry against the respondent was fair and proper. However, it placed the burden of proving the justification of deletion of the name of the respondent from the select list upon the petitioner.

4. The Labour Court after perusing the material on record held that the petitioner was unable to prove that

the accident occurred due to the negligence on the part of the respondent. It therefore held that the deletion of name of the respondent from the select list was not proper. Consequently, it allowed the claim petition and set-aside the order of the disciplinary authority deleting the name of the respondent from the select list and directed reinstatement of the respondent into service, without back-wages, and for consequential benefits from the date of deletion of the name of the respondent from the select list till reinstatement. However it ordered continuity of service. Being aggrieved by the said award the petitioner is before this Court

5. The learned counsel for the petitioner submitted the accident caused by respondent is not disputed. She submitted that in a domestic enquiry, it was not proper for the Labour Court to expect the petitioner to adduce the evidence of an eye witness. She contended that due to the negligence on the part of the respondent, five persons died and 10 passengers were seriously injured. She

submitted that MW-1 submitted a report about the accident which indicated that it was the respondent, who was negligent. She therefore submitted that Labour Court committed a mistake in interfering with the order of the disciplinary authority.

6. *Per contra*, learned counsel for respondent submitted that MW-1 was a person who had visited the accident scene much later and therefore his report was partisan and could not be relied upon to hold that the respondent was negligent and was responsible for the accident. She submitted that there was nothing to establish that the accident occurred due to the negligence of the respondent and therefore the Labour Court was justified in holding that the finding of the disciplinary authority was not on the basis of any acceptable evidence.

7. When this Court queried the learned counsel for the petitioner whether any claim petitions were filed by the persons who died or who were injured in the accident, the learned counsel for the petitioner fairly submitted that

claim petitions were filed. When this Court further enquired with her about the defence taken by the petitioner in those claim petitions, she fairly submitted that the petitioner had claimed that the respondent was not responsible for the accident.

8. I have considered the submissions of the learned counsel for the petitioner and the learned counsel for the respondent.

9. The impugned order passed by the Labour Court shows that it held that no credible evidence was produced before the domestic enquiry to establish that the accident was due to the negligence on the part of the respondent. Though heavy reliance was placed on the report submitted by MW-1 to hold that the respondent had caused the accident, MW1 apparently had visited the accident spot much later. Therefore, the order of the disciplinary authority removing the petitioner on the basis of the report submitted by MW-1 was itself not credible. No material is produced to establish whether a charge-

sheet was filed against respondent and the outcome of the criminal proceedings. The petitioner-Corporation has taken two different stands, one in the claim petitions filed by the victims where it was contended that the respondent was not responsible for the accident and in the present case, where it has accused the respondent of having driven the vehicle negligently. Therefore, the dual defence of the petitioner, mars the domestic enquiry initiated by it. The Labour Court was therefore justified in holding that there is nothing on record to establish that the respondent was responsible for the accident and therefore the order of the disciplinary authority removing the respondent from the select list was without any basis.

10. In that view of the matter, there is no error committed by the Labour Court in setting aside the order of the disciplinary authority and directing reinstatement. Hence the writ petition is dismissed.

11. The petitioner is directed to comply the order of the Labour Court in letter and spirit within a period of

three months from the date of receipt of copy of this order.

Sd/-
(R.NATARAJ)
JUDGE

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List No.: 1 Sl No.: 33
CT:SI