



**IN THE HIGH COURT OF KARNATAKA,
DHARWAD BENCH**

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DATED THIS THE 20TH DAY OF FEBRUARY, 2025

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO. 148260 OF 2020 (L-KSRTC)

BETWEEN:

THE DIVISIONAL CONTROLLER, NWKRTC
HUBBALLI DIVISION,
HUBBALLI,
DIST: DHARWAD-580002.

...PETITIONER

(BY SRI. PRASHANT S HOSMANI,ADVOCATE)

AND:

HUSSAINSAB
S/O GUDUSAB MISHRIKOTI
AGE: 65 YEARS,
OCC: RETIRED,
R/O: ADARGUNCHI,
TQ: HUBBALLI,
DIST: DHARWAD-580002.

...RESPONDENT

(BY SRI. CHETAN L LIMBIKAI., ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT, ORDER OR DIRECTION QUASHING THE IMPUGNED ORDER DATED 25.09.2019 PASSED BY THE PRESIDING OFFICER LABOUR COURT, HUBBALLI IN REF NO.13/2018 THE COPY OF THE SAID IMPUGNED ORDER IS PRODUCED AT ANNEXURE-A AND ETC.





THIS WRIT PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, THE COURT MADE THE FOLLOWING:

ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ)

1. The petitioner is before this Court seeking for the following reliefs:

- i. Issue a writ of Certiorari or any other appropriate writ, order or direction quashing the impugned order dated 25.09.2019 passed by the Presiding Officer Labour Court Hubballi, in Ref No.13/2018 the copy of the said impugned order is produced at Annexure-A in the interest of justice and equity.*
- ii. Pass such other and further orders as this Hon'ble Court deems just and necessary to pass in the facts and circumstances of this case.*

2. The respondent was appointed as a driver in the petitioner-Corporation it is contented that on 24.03.2013 when the respondent was on duty as a driver in bus bearing No.KA-42/F-113 plying between Belagavi to Hubballi at about 13.30 hours near old DSP office, rash and negligent driving of the workman resulted in the death of a rider of a



motorcycle. It is in that background that on a criminal case being registered, disciplinary proceedings were taken up against the respondent.

3. Show cause notice having been issued, the respondent submitted a reply to the articles of charge, the reply not being satisfactory and acceptable. The enquiry officer was appointed, who submitted a report against the respondent. The second show cause notice having been issued, the response not being acceptable. The disciplinary authority passed an order of dismissal of the respondent from service.
4. It is challenging the same, the respondent had filed proceedings before the Labour Court in Ref.No.13/2018, which came to be allowed. It is challenging the said order, that the petitioner is before this Court seeking for the aforesaid reliefs.
5. On an earlier occasion, when the matter was taken up an enquiry was made with the counsel for the



petitioner as to whether any motor vehicle claim case had been filed by the family of the deceased motorcycle rider. If so, what was the stand taken by the Road Transport Corporation in the said matter.

6. Today, Sri.Prashant S.Hosmani., learned counsel for the Road Transport Corporation, on instruction, fairly submits that a motor vehicle claim case was indeed filed, where the Road Transport Corporation had taken a stand that the respondent-driver was driving in a proper manner and the fault was that of the rider of the motorcycle. The said contention was not accepted by the MVC Court, and the award came to be passed on 20.6.2014 which was challenged by the Road Transport Corporation only on the aspect of quantum before this Court, which appeal came to be dismissed and thereafter the Petitioner has made payment of the due amounts to the claimants in those proceedings.



7. If any accident occurs, in pursuance of which the Corporation were to initiate disciplinary proceedings against a driver. The Corporation cannot take a different stand in a claim proceeding filed in MVC matters. The Corporation being a government entity and a State under the constitution is required to be a model litigant. A model litigant cannot take two contradictory stands, on the one hand, contending that the driver was driving in a proper manner, virtually certifying the driver's conduct and driving abilities and on the other hand, initiate proceedings against a driver for rash and negligent driving by contending that there is a misconduct.
8. The stand that is to be taken by the Corporation has to be uniform, it is always open to the Corporation to prosecute a driver for rash and negligent driving but at the same time, the Corporation would have to act fairly and in a Motor Vehicle Claim Petition, not contend that there was no fault on part of the driver,



but accept that the driver was driving rashly and negligently on account of disciplinary proceeding having already been initiated against the driver.

9. Of course, the said proceedings could be contested on the quantum aspect of the compensation but not as regards the liability aspect by contending that the liability is of the driver/rider of the other vehicle.
10. In the present matter, the stand having been taken before the MVC Court that the driver was driving properly and this stand not having been changed even after disciplinary proceedings had been initiated against the driver on 24.01.2014, the proceedings before the MVC Court having come to a conclusion on 20.06.2014, I am of the considered opinion that the contradictory stand taken by the Road Transport Corporation is not sustainable and is in fact *malafide*.
11. In that view of the matter, the Road Transport Corporation having succeeded in delaying the awardal of compensation before the MVC Court and



filing an appeal before this Court in Misc. First Appeal and at the same time prosecuting the driver for negligent driving cannot be sustained. As such, I pass the following;

ORDER

- i. The Writ Petition is ***dismissed***.
- ii. The order dated 25.09.2019, passed in Reference No.13 of 2018 at Annexure-A is confirmed, time granted by Labour Court is extended by a period of 30 days from today for compliance by the Petitioner-Road Transport Corporation.

Sd/-
(SURAJ GOVINDARAJ)
JUDGE

SR
List No.: 1 Sl No.: 132