

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 939 OF 2014

Dhondiba s/o Madhavrao Kagane,
Age: 38 years, Occu. Service,
R/o Hibbat, Tq. Mukhed,
District Nanded.

...Petitioner

versus

Divisional Controller,
Maharashtra State Road
Transportation Corporation,
Division Latur,
Taluka and District Latur.

...Respondent

.....
Mr. M. R. Andhale, Advocate for petitioner.
Mr. D. S. Bagul, Advocate for respondent.
.....

CORAM : N.W. SAMBRE, J.

DATE : 25TH FEBRUARY, 2015

ORAL ORDER :

. The petitioner, claiming to be working as Conductor with the respondent-Corporation, was served with show cause notice dated 20/03/2013 alleging serious defaults in his conduct while discharging duty, calling upon him why he should not be dismissed from service.

2. There is no dispute that prior to above referred default,

there are nine earlier defaults recorded against present petitioner while discharging duty as Conductor.

3. The said show cause notice resulted into filing of Complaint bearing Complaint (ULP) No. 20 of 2013 before the Labour Court, wherein the Labour Court initially granted protection, however, same came to be vacated by an order 19/10/2013 resulting in rejection of the application for grant of interim protection till decision of the complaint on merits. The revision at the behest of the petitioner bearing Revision (ULP) No. 70 of 2013 before the Industrial Court suffered same fate, as is reflected in the order dated 02/01/2014 passed by Member, Industrial Court. As such, present petition.

4. Mr. Andhale, learned Counsel for the petitioner has strenuously urged that an opportunity of hearing while conducting the departmental inquiry was denied to the petitioner, as he was not permitted to cross examine the witnesses. He submits that the said issue can be established at an appropriate stage before the Labour Court by adducing cogent evidence in support thereof and according to him, present one is a fit case, wherein protection of service is required to be extended in favour of the petitioner.

5. Mr. Bagul, learned Counsel for the respondent submits that the petitioner is history sheeter qua his conduct with the respondent-Corporation, as in all ten defaults are noticed against him. The opportunity given to the petitioner against nine defaults which he has committed earlier has not changed the approach of the petitioner in performing his service. He has further invited my attention to the observations made by learned Labour Court in the order dated 19/10/2013 and the order dated 02/01/2014 passed by the Industrial Court, wherein the prayer for interim relief was rejected. He submits that once both the authorities below having concurrently held against the petitioner that he is not entitled for interim relief, this Court should be very slow in interfering in the extraordinary jurisdiction. He further urged that both the Courts have gone into merits of the matter qua entitlement of the petitioner for grant of interim relief and have rejected the claim, which should be considered by this Court.

6. Having considered the rival contentions of the parties and having devolved upon the findings recorded by Labour Court and Industrial Court, it is required to be noted that the Industrial Court has gone into factual matrix of the matter as regards the charge sheet dated 24/08/2014, default on the part of the petitioner while operating bus on Buldhana-Ahmedpur road on 18/08/2012, serious

default committed in not issuing tickets to the passengers though the amount was collected.

7. It is noticed that both the Courts below have gone into in detail, as regards the entitlement of the petitioner for making out *prima facie* case before the said Courts for grant of interim relief and have rejected the claim.

8. Having considered the same, this Court has not noticed any illegality or material irregularity in the order passed by both the Courts below. No case for interference is made out. The petition is devoid of merits, same stands rejected.

[N.W. SAMBRE, J.]