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

WRIT PETITION NO. 4012 OF 2015

MAHARASHTRA STATE ROAD TRANSPORT CORPORATION, LATUR
VERSUS
BHASKAR TATYARAO DOMBALE

...

Advocate for Petitioner : Mrs.Reddy Ranjana D.

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 19th October, 2015

Per Court:

1 The Petitioner/ Corporation is aggrieved by the impugned judgment and order dated 04.09.2014 delivered by the Industrial Court, Latur in Complaint (ULP) No.91/2010. By the impugned judgment, the Petitioner is directed to consider the case of the Respondent/ Employee for appointment as a Traffic Controller-cum- Clerk within two months from the date of judgment in accordance with law.

2 Mrs.Reddy, learned Advocate for the Petitioner, submits that the sole Respondent was dismissed from service as a Conductor Junior on 20.11.2013 after following the due procedure of law, for proved misconducts of misappropriation. This aspect was not brought to the notice of the Industrial Court which has delivered the impugned judgment

on 04.09.2014.

3 The operative part of the impugned judgment dated 04.09.2014 reads as under:-

- “1. *Com/ULP/No.91/2010 is partly allowed.*
2. *It is hereby declared that the respondent has engaged in unfair labour practice within the scope of Item Nos.5, 9 and 10 of Schedule IV of the MRTU & PULP Act, 1971 and respondent is directed to cease and desist unfair labour practice.*
3. *The respondent is directed to consider the case of the complainant for the appointment of Traffic Controller/ Clerk within 2 months from today in accordance with law.*
4. *No order as to cost.”*

4 It is thus, evident that the Petitioner has been directed to consider the case of the Respondent for the post of Traffic Controller/ Clerk. It is categorically stated by the Petitioner that the Respondent, who was appointed as a Conductor Junior on compassionate ground, has been dismissed from service on 20.11.2013 for proved misconducts.

5 The Respondent has been served with the court notice which was issued on 18.04.2015. Despite the same, the Respondent has neither appeared in person, nor caused an appearance through an Advocate.

6 Since the Respondent has been dismissed on 20.11.2013 and

the impugned judgment has been delivered on 04.09.2014, no purpose would be served in keeping the impugned judgment in operation.

7 In the light of the above, this Writ Petition is partly allowed. The impugned judgment dated 04.09.2014 shall not be operable in the light of the dismissal of the Respondent dated 20.11.2013.

8 In the event, the Respondent challenges his dismissal and succeeds in getting reinstatement in employment and thereafter, seeks execution of the impugned judgment dated 04.09.2014, the Petitioner will be at liberty to question the legality and validity of the impugned judgment as a fresh cause of action.

(RAVINDRA V. GHUGE, J.)