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

WRIT PETITION NO.6812 OF 2015

DEVIDAS MARUTI CHAVHAN  
VERSUS  
DIVISIONAL CONTROLLER AND ANOTHER

...  
Advocate for Petitioner : Mr.Nagarkar Kiran M.

...

**CORAM: RAVINDRA V. GHUGE, J.**

**DATE :- 15<sup>th</sup> July, 2015**

Per Court:

1           The Petitioner challenges the impugned judgment and order dated 04.03.2015 delivered by the Industrial Court, Latur in Complaint (ULP) No.72/2012 by which the complaint preferred by the Petitioner has been partly allowed.

2           The grievance of the Petitioner is that the Respondent/ MSRTC has levelled an allegation against him by which it is claimed that the Petitioner was responsible for an accident which occurred on 04.07.2010. The Petitioner, who is driver with the Respondent/ MSRTC, was driving the Bus on Udgir-Jamb route when an accident occurred at Khambadwadi on 04.07.2010 in the morning. A 70 years old deaf man, who was grazing his bullocks on the road side, is said to have collided

with the said Bus while crossing the road, which led to his death.

3           The Petitioner was served with the charge sheet cum show cause notice dated 16.09.2010. By the letter dated 14.12.2010, the Petitioner demanded certain documents. By the communication dated 17.02.2011, he was supplied the said documents. A domestic enquiry was conducted and the Petitioner was held guilty of the charges levelled upon him. The punishment of permanent stoppage of two increments was imposed upon him.

4           Shri Nagarkar, learned Advocate for the Petitioner, submits that the Petitioner preferred Complaint (ULP) No.72/2012 before the Industrial Court at Latur. He has placed on record the judgment delivered by the learned Judicial Magistrate First Class, Udgir in STC No.332/2010 to indicate that the Petitioner has been acquitted from the offences punishable under Sections 279 and 304-A of the Indian Penal Code. He, therefore, submits that the Criminal Court has acquitted the Petitioner and the charge of rash or negligent driving so as to endanger human life and commit such an act which is likely to cause physical hurt or injury to any person, is not proved against him. Similarly, the act of rash and negligent driving not amounting to culpable homicide has also not been proved against him.

5           By the impugned judgment and order dated 04.03.2015, the complaint has been partly allowed and the severity of punishment has been scaled down to reduction in basic pay for two years without cumulative effect.

6           The grievance is that since the Petitioner has been acquitted by the Court of Criminal jurisdiction, the Employer could not have held the Petitioner guilty in a departmental proceeding. The charges do not warrant any punishment as the Petitioner deserves to be exonerated. The bus was 09 years old and therefore, was required to be removed from service and should have been scrapped. Considering these aspects, Shri Nagarkar has vehemently submitted that the impugned judgment deserves to be quashed and set aside. The complaint deserves to be allowed and the Petitioner deserves to be exonerated of the charges levelled upon him.

7           It is trite law that acquittal in a criminal case has no impact on a departmental or domestic enquiry proceeding. The evidential value in criminal trial is of a high degree and cannot be equated with the evidence recorded in a departmental enquiry. In service jurisprudence, hear-say evidence is also permissible. The cardinal principle in service jurisprudence while holding a person guilty of the charges levelled upon

him, is preponderance on the principle of probabilities.

8           In a catena of judgments, the Apex Court has concluded that the criminal proceedings are conceptually distinct and different from the disciplinary proceedings. The acquittal in a criminal case per se would not lead to exoneration in disciplinary proceedings.

9           In the instant case, a human being has died on account of an accident involving the Petitioner. By his own version, it is stated that the victim/ deceased was grazing cattle and was crossing the road. Though the Petitioner contends that his bus did not dash the deceased, the fact remains that the deceased has died on account of the said accident as he had suffered injuries.

10          The Petitioner has set out his prayer clauses in Complaint (ULP) No.72/2012 wherein it is stated that the order of punishment dated 29.12.2011 be set aside and the Petitioner be absolved of all the charges. There is no prayer for setting aside the enquiry on the ground that it has been conducted in violation of the principles of natural justice. There is no prayer that the findings of the Enquiry Officer be held to be perverse and therefore, the entire enquiry be set aside.

11 In the light of the prayers set out in the complaint, the issue before the Industrial Court was as to whether, the punishment awarded to the Petitioner was shockingly disproportionate to the gravity and seriousness of the charges proved against him. Nevertheless, the Industrial Court has considered even the validity of the enquiry and the Enquiry Officer's findings and has concluded that the enquiry has been conducted in a fair and proper manner and the findings are not perverse.

12 In this backdrop, the Industrial Court has come to the conclusion that the punishment is disproportionate and therefore, needs to be scaled down. The Industrial Court has reduced the punishment of permanent reduction of basic pay by two stages into two years without cumulative effect.

13 The operative part of the order of the Industrial Court reads as under:-

- “1. Com/ULP/No.72/2012 is partly allowed.
2. It is hereby declared that the respondent has engaged in unfair labour practice within the meaning of item Nos.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 the punishment which was given to the complainant as per order dated 29.12.2011 in respect of reduction in basic pay of the complainant for two stages permanently, give the said

- punishment for two years only without cumulative effect as per D. & A.P Rules.*  
4. *No order as to cost.”*

14           The Petitioner has no knowledge as to whether, the Respondent has challenged the impugned judgment. As such, I am dealing with this petition without considering whether, the Industrial Court was right in scaling down the punishment awarded to the Petitioner in the light of the principles laid down in the judgment delivered by the King's Bench which is known as Wednesbury principles. (*See Associated Provincial Picture Houses Ltd. v/s Wednesbury Corporation* reported in **(1947) 2 ALL ER 680 : (1948) 1 KB 223.**)

15           In such circumstances, I am required to deal only with the contention, whether, the Petitioner deserves to be exonerated. In a disciplinary proceeding, it is not within the domain of the Employer to consider as to how and why the road accident occurred and thereby, fix responsibility on the driver. The issue is as regards an accident that has occurred admittedly when the Petitioner was driving the Bus. Death has been caused by the said accident.

16           In the light of the above, I do not find that the impugned judgment deserves to be termed as perverse or erroneous. I do not find

that the said judgment could be said to have caused grave injustice to the Petitioner.

17           As such, this Writ Petition, which is devoid of merits, is dismissed.

**(RAVINDRA V. GHUGE, J.)**