

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO. 8208 OF 2015

Maharashtra State Road
Transport Corporation,
Dhule Division, District Dhule,
Through the Divisional Controller. ...Petitioner...

Versus

Sunil Madhavrao Pimpliskar
Age : , Occu.: Service,
R/o : Ekvira Colony, Varud Road,
Tq. Shindkheda District Dhule. ...Respondent...

.....
Shri. R. N. Jain h/f Shri. D. S. Bagul, Adv. for
petitioner.
Shri. P. B. Pawar, Adv. for respondent.

.....

CORAM: RAVINDRA V. GHUGE, J.

DATE: 07.12.2015.

ORAL JUDGMENT :

1] On 11.8.2015, this Court had passed the
following order while issuing notice to the respondent :-

“1. The Respondent is a Bus Driver. His Bus met
with an accident causing damage computed at Rs.1
lac to the vehicle. After conducting the
departmental enquiry, he was awarded the

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punishment of reducing his basic salary by three stages.

2. The Respondent instituted Complaint (ULP) No.32/2013 before the Industrial Court challenging the domestic enquiry, the findings of the Enquiry Officer and the punishment awarded to him. By the impugned judgment dated 13.04.2015, the Industrial Court has allowed the complaint, set aside the order of punishment and directed the Petitioner to pay arrears with 6% interest.

3. Shri Bagul, learned Advocate for the Petitioner, submits that the two issues as regards "whether, the complainant proves that the enquiry is vitiated due to non observance of the principles of natural justice?" and "whether, the Complainant proves that the findings of the Enquiry Officer are perverse?", were not framed by the Industrial Court. The entire complaint was allowed by coming to the conclusion that the charges proved against the Respondent are not based on proper evidence.

4. Even in this case, I do not find that the Petitioner has cited before the Industrial Court, the judgment delivered by this Court in the case of *MSRTC, Beed v/s Syed Saheblal Syed Nijam* reported in **2014 (III) CLR 547 : 2014(4) Mh.L.J. 687.**

5. Issue notice to the Respondent returnable on 02.09.2015.

7. Till the next date of hearing in this

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matter, the impugned judgment dated 13.04.2015 shall stand stayed."

2] Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

3] Shri D.S. Bagul, learned Advocate for the petitioner reiterates his submissions recorded in paragraph nos.2 and 3 in the order dated 11.8.2015, reproduced here-in-above.

4] Shri P.B. Pawar, learned Advocate appearing on behalf of the sole respondent has strenuously supported the impugned judgment and order.

5] He submits that the Industrial Court has considered the entire evidence on record since it was a complaint before the Industrial Court and not a revision petition. After considering the fact situation, the Industrial Court was convinced that the petitioner has engaged in unfair labour practices. The Industrial Court has, therefore, rightly allowed the complaint and set aside the order of punishment reducing the pay of the respondent by three stages from 1.3.2012.

6] He, therefore, strenuously submits that the conclusions of the Industrial Court cannot be upset in

the supervisory or writ jurisdiction of this Court since it is akin to the revisional jurisdiction of the Industrial Court u/s 44 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971.

7] I have considered the submissions of the learned Advocates as have been recorded here-in-above.

8] It is trite law that if the Industrial Court or the Labour Court desires to interfere with the disciplinary proceedings by holding that the inquiry is vitiated for non-observance of the principles of natural justice or that the findings of the Enquiry Officer deserve to be branded as perverse, the two issues as are set out in paragraph no.3 reproduced here-in-above, have to be framed and the said issues have to be dealt with in the light of the law laid down by this Court in the case of *Maharashtra State Cooperative Cotton Growers Marketing Federation Ltd. & another v. Vasant Ambadas Deshpande* (2014 (7) Bom.C.R., 94). I find that the Industrial Court has not proceeded in accordance with the crystallized position of law.

9] The impugned judgment and order dated 13.4.2015

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is, therefore, quashed and set aside. The petition is partly allowed with the following directions:-

[A] Complaint (ULP) No.32/2013 is remitted to the Industrial Court, Dhule, for framing of the two issues as follows:-

[i] Whether the complainant proves that the enquiry is vitiated due to non-observance of the principles of natural justice ?

[ii] Whether the complainant proves that the findings of the Inquiry Officer are perverse ?

[B] Needless to state that the above two issues shall be decided by the Industrial Court peremptorily as it would constitute its part one judgment in the light of the ratio laid down by this Court in the cases of *Maharashtra State Cooperative Cotton Growers Marketing Federation Ltd.*(supra) and *MSRTC, Beed* (supra).

[C] In the event the enquiry is set aside, the issue of permitting the petitioner to conduct a *de-novo* enquiry would be decided by the Industrial Court in the light of the ratio laid down by the Apex Court (five Judges Bench) in the matter of *Karnataka State*

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*Road Transport Corporation v. Lakshmiddevamma (Smt.)
& another (2001 II CLR 640).*

[D] The litigating sides are agreeable to appear before the Industrial Court on 21.12.2015. The Industrial Court need not, therefore, issue formal notices to the litigating sides.

[E] The Industrial Court shall endeavour to decide the complaint as expeditiously as possible and preferably on or before 31.12.2016.

[F] Rule is made partly absolute in the above terms with no order as to costs.

(RAVINDRA V. GHUGE, J.)