

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9992 OF 2012

RAMDAS SADHU GUND

PETITIONER

VERSUS

THE DIVISIONAL TRAFFIC SUPDT. MSRTC,
OSMANABAD AND ANOTHER

RESPONDENTS

Mr.Anandsing Bayas, Advocate for the petitioner.

Mr.R.N.Jain h/f Mr.D.S.Bagul, Advocate for respondent No.2.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 06/07/2015

PER COURT :

1. After hearing the learned advocates for the respective sides, I had passed the following order on 18/06/2015 :-

“1. Leave to place on record the complete impugned judgment dated 22/11/2012 delivered by the Industrial Court in Revision (ULP) No.12/2011, is granted. Addition and pagination be carried out forthwith by the petitioner.

2. Since the petitioner has put forth two proposals for consideration of the respondents, stand over to 25/06/2015.”

2. I had once again heard the learned Advocates on the merits of the matter on 25/06/2015 and by recording the statement on instructions given by the petitioner, the following order was passed :-

“1. This matter was heard for sometime on 18.6.2015 and thereafter today.

2. Shri Bayas, learned Advocate, upon taking instructions from the petitioner, who is present in the Court, submits that the petitioner is left with about 6-7 years of employment. The misconduct at issue is only for an amount of Rs.71/-. A stigmatic removal from service in the form of dismissal is likely to deprive the petitioner of his entire retiral benefits. He, therefore, submits, on instructions, that the petitioner is willing to file an affidavit in the Court that he would tender his resignation forthwith and relinquish his remaining employment in order to avoid a stigmatic removal from service and rescue his retiral benefits.

3. Though Shri Bagul, learned Advocate for the respondent has resisted the said submission for the reason that prior to the mis-conduct at issue, there are 14 incidents of different nature in the default card. Yet, he would prefer to take instructions and make his submissions on the next date.

4. In the light of the above, S.O. to 1.7.2015. The petitioner is at liberty to file his affidavit, as stated by him, which has been recorded herein above.

5. S.O. to 1.7.2015.”

3. The petitioner has filed an affidavit duly sworn dated 01/07/2015, which is placed on record and marked as Exhibit "X" for identification.

4. The relevant portion of the affidavit, paragraph No.1, Exhibit "X" reads as under :-

"I am appointed as a conductor in MSRTC on 02/11/1989. I am ready to give up my remaining service if my application for voluntary retirement will be accepted with all pensionary benefits. I will be entitle to get provident fund, Gratuity, Family Pension, Leave Encashment withhold increments, difference in increment, Family Pass and all admissible benefits."

5. Mr.Bagul, learned Advocate on behalf of the MSRTC submits that the Corporation intends to proceed with the disciplinary action notwithstanding the fact that the Corporation is litigating with the petitioner from 2001 when the show cause notice dated 06/09/2001 was issued. The Corporation does not mind continuing with the litigation against the petitioner even in future.

6. Mr.Bayas, learned Advocate submits on instructions that the petitioner, who is 51 years old today and has about 7 years of service left, is in employment as a Bus-Conductor under orders of the

Labour Court and Industrial Court delivered at various times in relation to the proposed punishment of dismissal set out in the show cause notice dated 06/09/2001. The petitioner desires to put an end to this litigation. He does not desire an unceremonious exit from employment. He does not desire to receive a stigmatic termination/dismissal order. He has, therefore, decided consciously to give up his remaining service by filing a resignation letter since it would rescue his retiral benefits.

7. During the hearing today, after considering the objections of the respondents, I once again asked Mr.Bayas, learned Advocate as to whether the petitioner desires to withdraw the affidavit dated 01/07/2015 or whether he confirms that he desires to submit his resignation.

8. Mr.Bayas submits that on the last date, the petitioner was present in the Court when the order dated 25/06/2015 was passed. He submits that though the petitioner is not present in the Court today, he has confirmed that it is in his interest to resign from employment and leave the services so as to avoid a stigmatic removal and rescue his retiral benefits.

9. This is a peculiar situation. The petitioner desires to avoid an unceremonious exit and a stigmatic removal. He finds it more appropriate to rescue his retiral benefits and avoid any further litigation. It appears that the employer does not desire to keep the petitioner in service because of the charges levelled upon him.

10. In these peculiar facts and circumstances, I find it appropriate to permit the petitioner to tender his resignation to the respondent / Corporation on or before 17/07/2015. In the event, the petitioner submits such a resignation, the employer shall accept the same. The petitioner shall thereafter be relieved from service by 31/07/2015. He shall be entitled to his retiral benefits like gratuity, provident fund, family pension and leave encashment etc. Benefits like family pass will also be available to the petitioner. The respondent employer is at liberty to consider his request for increments or difference in increments in accordance with its rule and policy.

11. With the above observations, this petition is disposed of.

(RAVINDRA V. GHUGE, J.)