

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO. 11657 OF 2014

THE DIVISIONAL CONTROLLER, MSRTC, LATUR  
VERSUS  
LAHU BAPURAO PHAD

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Advocate for Petitioner : Shri D.S.Bagul

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CORAM : RAVINDRA V. GHUGE, J.  
Dated: January 07, 2015

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PER COURT :-

1. The petitioner - MSRTC is aggrieved by the impugned order dated 9.9.2014, passed by the Industrial Court, Latur in Complaint (ULP) No.180 of 2014.
2. The respondent is the employee of the petitioner in his capacity as a Driver. He had joined sometime in 2005 and was taken on regular pay scales on 13.5.2014. By an order dated 30.6.2014, he was transferred from Ahmedpur to Latur, which is at a distance of about 50 kms.
3. Being aggrieved by the transfer, which the respondent purportedly came to know about, he entered the Depot at Ahmedpur on 28.6.2014 and indulged in acts of mis-behaviour with the officials of the petitioner as well as certain passengers. It is alleged that he was under the influence of liquor and had pelted stones. It is stated that a similar incident occurred on 11.10.2014. The first information report No.171 of 2014 has been registered against him.

4. The respondent has challenged his transfer and order relieving him from Ahmedpur by Complaint (ULP) No.180 of 2013 before the Industrial Court, Latur. By the impugned order dated 9.9.2014 the application for interim relief (Exhibit U/2) has been decided by the learned Member of the Industrial Court, Latur. While allowing the said application, the learned Member has ordered as under:-

*" 1. Application, Exh.U/2 is partly allowed.*

*2. The relieving order dated 30.6.2014 issued byt he respondent to the complainant is hereby stayed till 30.4.2015 or till completion of 12<sup>th</sup> Std. examination of the daughter of the complainant whichever is earlier.*

*3. The respondent is at liberty to take disciplinary action against the complainant even during pendency of this complaint in accordance with law as per suspension order dated 30.6.2014 and charge-sheet dated 7.7.2014 as early as possible.*

*4. Case to proceed further."*

5. Contention of the petitioner is that the impugned order is passed purely out of sympathy and without taking into account the fact situation. Unless the petitioner makes out a case of a malafide transfer under the guise of following management policy, attracting item (3) of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971, there cannot be any interference with the

transfer order. It is further canvassed that merely because the daughter of the respondent is said to be exam going in the XII Grade of education, the order of relieving the petitioner dated 30.6.2014, has been stayed till 30.4.2015 or till the completion of her examination, whichever is earlier.

6. Having heard the learned Advocate for the petitioner and having gone through the petition paper book, I do not find that any interference is called for in the interlocutory order passed by the Court below. Considering the hardships in the peculiar facts of this case, the Industrial Court, Latur has permitted the respondent to continue at Ahmedpur till completion of the XII Standard examination of his daughter. It is thus clear that the moment the XII grade examinations in the State are concluded in March 2015 or on any date as per the examination schedule declared by the Latur H.S.C.Board, the relieving order dated 30.6.2014 would come into operation. Moreover, the respondent has not challenged the said order as per the knowledge of the petitioner.

7. The Industrial Court while passing the impugned order has also considered the fact of mis-conduct indulged into by the respondent. He has already been placed under suspension by order dated 30.6.2013 and a charge sheet dated 7.7.2014 has also been issued to him. The Industrial Court has granted liberty to the petitioner to proceed with the disciplinary proceeding under their Discipline and Appeal Rules.

8. Taking an over all view of the peculiar facts of this case, I am not inclined to cause any interference in the impugned order and the same cannot be termed to be perverse / erroneous or likely to cause grave injustice to the petitioner.

9. As such, this petition is dismissed.

( RAVINDRA V. GHUGE, J. )

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