

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION***

***WRIT PETITION NO. 3967 OF 2014***

Maharashtra State Road Transport  
Corporation, Vahatuk Bhavan,  
Dr.A.Nair Marg, Mumbai – 400 008.

... Petitioner

v/s

Shri Shivling Damu Chavan,  
R/at – Saguna Mata Nagar, Gosavi Vasti,  
Jinti Naka, Tal. Phaltan, Dist. Satara.

... Respondent

Mr.G.S.Hegde along with C.M. Lokesh i/by G.S.Hegde & Associates  
for the petitioner.

Mr.Vaibhav Gaikwad for Respondent No.1.

***CORAM: N.M. JAMDAR, J.***

***DATED : 8 DECEMBER 2015***

***ORAL ORDER:***

By this petition, the Petitioner Corporation challenges the orders passed by the Industrial Court, Satara, dated 2 February 2013 confirming the orders passed by the Labour Court, dated 4 July 2009 and 13 January 2012.

2. The Respondent filed a Complaint bearing (ULP) No.20 of 2002 in the Labour Court, Satara. According to the Respondent, he was employed as a Conductor with the Petitioner Corporation. On 6

September 1997, when he was on duty from Pune to Vaduj, an amount of Rs.31.50 was found excess. He was proceeded with departmentally. A criminal complaint was also filed from which the Respondent was acquitted on 5 April 2002. In the departmental enquiry, he was found guilty and thereafter he was dismissed from service. The Respondent filed a Complaint (ULP) No.20 of 2002 in the Labour Court, Satara, under Section 28 of Schedule IV of the M.R.T.U. & P.U.L.P. Act, 1971. The Labour Court, by order dated 4 July 2009 held that the enquiry was not fair and proper and the findings were perverse. The Petitioner thereafter led evidence and the Labour Court, after considering the evidence so led, concluded that the amount of Rs.31.50 which was found excess, was found from the back seat of the empty bus when it reached the depot and no misconduct on the part of the Respondent was proved. Also the allegation that he assaulted superiors was not proved. The Labour Court, considering the fact that the Respondent was employed and was getting Rs.70/- to Rs.80/- per day, did not grant 100% but granted only 25% back wages.

3. These orders of Part I and II award, were challenged by the Petitioner by Revision (ULP) Nos.16 of 2011 and 23 of 2012. The Industrial Court considered legality of the orders challenged before it and dismissed the revision applications by the impugned order dated 2 January 2013.

4. I have heard the learned counsel for the parties.

5. Both the courts have recorded a finding of fact that the amount of Rs.31.50 which was stated to be found excess, without explanation, was found on the back seat of the bus and not on person of the Petitioner. The Courts have taken note of an Internal guideline that the non-disclosure of this amount below Rs.100/- will not be a major misconduct. Even they have also recorded a finding that the Respondent was about to report the finding of this unclaimed amount to the depot but before that he was accosted. Both the Courts assessed the evidence and came to the conclusion that the explanation offered by the Respondent was a credible one and no misconduct was committed by him. As regard the back wages, both the Courts have already deprived the Respondent of 75% of the back wages. The Respondent is bound to do something in the meanwhile for his livelihood and that has been taken into consideration by both the Courts.

6. In the circumstances, there is no error or perversity or failure of justice to warrant interference in writ jurisdiction.

7. Writ petition is accordingly rejected.

**( N. M. JAMDAR, J. )**