

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.

WRIT PETITION NO.3764 OF 2015

(The Divisional Controller, Maharashtra State Road Transport Corporation, Chandrapur and
 another ..vs.. Roshan s/o Chandrabhan Moon)

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

CORAM : Z.A. HAQ, J.

DATED : 14-07-2015

Heard Shri V.H. Kedar, learned Advocate for the
 petitioners.

2. The Maharashtra State Road Transport Corporation/employer has filed the petition challenging the order passed by the Industrial Court, declaring that the punishment imposed by the order dated 16-10-2009 is illegal and inoperative and quashing it. The conclusions of the Industrial Court are recorded in paragraphs 14 and 15 as follows :

“14. Complainant is not disputing the findings arrived at by the enquiry Officer dated 16-10-2009. Considering such findings, respondent No.1 issued the order of punishment dated 16-10-2009 confirming that the complainant is not involved in misconduct of misappropriating the amount. The charge against the complainant was that on the alleged date, the complainant has committed misappropriation of Rs.6/- by issuing two used tickets. The enquiry Officer has held that this is not the fact but due to negligence on the part

of the complainant stray tickets came to be issued which is against the Rules of the department. Therefore, the disciplinary authority reduced the one increment of the complainant permanently and also held that the suspension period of the complainant will be treated as period of earned leave and in case the leave is not in the balance of the complainant, then this period be treated as leave without pay.

15. It is the case of the complainant that in the departmental enquiry, there was no charge of negligence and, therefore, imposing of such punishment without conducting the departmental enquiry on this charge amounts to unfair labour practice. On perusal of enquiry report, it is clear that the charge of negligence was not framed against the complainant. However, the complainant is held guilty of negligent in performing his duty and alleged punishment was imposed on him. It is settled principles of law that a person cannot be imposed punishment without giving him opportunity of defending himself on the charge leveled against him. Therefore, when the department has not framed the charge of complainant holding guilty of negligent in performing his duty, the punishment awarded to him on this count is illegal. Therefore, there is substance in the case of the complainant that by imposing the punishment without framing the charge of negligence, the impugned order dated 16-10-2009 holding him guilty of negligent is illegal and invalid. I have, therefore, recorded my finding against Issue no.3 in negative.”

3. The findings of fact recorded by the Industrial Court are based on proper appreciation of material on

the record. I do not find any patent illegality or perversity in the impugned order which necessitates the interference by this Court in the extra-ordinary writ jurisdiction. Apart from this, the impugned order is dated 25-06-2012 and the petition is filed on 25-06-2015. There is no explanation in the petition for the inordinate delay and laches on the part of the petitioners in filing the petition. The petition is dismissed. No costs.

JUDGE

pma