

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 4173 OF 1997

Maharashtra State Road Transport
Corporation.
Through its Divisional Controller,
Jalgaon.

...PETITIONER

-VERSUS-

Pralhad Vasudeo Patil,
since deceased through L.R.
Durgabai Deoram Chaudhari,
Age : Major, Occupation : Household,
R/o Plot No.4, Shastri Nagar, Jalgaon,
District Jalgaon.

...RESPONDENT

...

Advocate for Petitioner : Shri M.K.Goyanka.

Advocate for Respondent : Shri V.N.Upadhye h/f Shri Vijay Patil.

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 22nd December, 2016

Oral Judgment :

1 The Petitioner/ MSRTC is aggrieved by the judgment of the Industrial Court dated 13.03.1997 by which Revision (ULP) No.12/1992 filed by the deceased employee Pralhad Patil has been dismissed for being abated and yet the direction is issued to the Petitioner/ MSRTC to pay all legal dues including gratuity to the legal heir of the deceased.

2 Though Shri Upadhye, learned Advocate for the Respondent, has strenuously defended the impugned judgment and has submitted that this Court should not interfere in the impugned judgment only because a second view is possible, I am unable to accept his submissions for the reason that the Labour Court, by its judgment dated 12.12.1991, had dismissed Complaint (ULP) No.57/1986 filed by the Respondent/Employee. In Revision Petition, since the employee Pralhad Patil had passed away, the revision petition was dismissed for being abated. Having concluded that the revision petition abates, the Industrial Court could not have issued the direction to the Petitioner/ MSRTC and especially the direction to pay gratuity when the deceased employee was dismissed from service for having committed the misconduct of misappropriation of money which amounts to moral turpitude.

3 Moreover, insofar as the issue as regards the gratuity is concerned, whether it has been forfeited or not and as regards the quantum of gratuity, if payable, an independent legal machinery in the form of the Labour Court as a controlling authority and the Industrial Court as an appellate authority, under the Payment of Gratuity Act, 1972 has been provided and is in place. Therefore, the issue of gratuity will have to be considered by the Court having jurisdiction in the matter.

4 In the light of the above, this Writ Petition is partly allowed. The impugned judgment of the Industrial Court dated 13.03.1997 is set aside only to the extent of clause (2) as regards the direction to pay the gratuity. However, it needs mention that if legal heirs of the deceased Pralhad Patil have any claims against the Petitioner/ MSRTC, they are at liberty to prefer an appropriate representation and if such representation is made, the Petitioner/ MSRTC shall be obliged to decide the same within a period of TWO MONTHS from the date of receipt of such representation.

5 Rule is made partly absolute in the above terms.

kps

(RAVINDRA V. GHUGE, J.)