

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5211 OF 1995

Maharashtra State Road Transport
Corporation,
Through Divisional Controller,
Beed.

PETITIONER

VERSUS

Mohammed Waziruddin Mohd.
Muniruddin,
Age-58 years, Occu-Ex-driver,
R/o Mohalla Azizpura,
Beed

RESPONDENT

Mr.A.B.Dhongde, Advocate for the petitioner.
Mrs.A.N.Ansari, Advocate for the respondents.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 11/08/2016

ORAL JUDGMENT :

1. Heard the learned Advocates for the petitioner and the respondents. This matter was Admitted on 04/04/1996.

2. The deceased/respondent was the original complainant in his capacity of being an employee as a "Driver" with the petitioner/ Corporation, in Complaint (ULP) No.136/1993. In a routine medical check up, the deceased was examined on 21/09/1990 and was held to be medically unfit to drive the bus. Consequentially, he was

terminated w.e.f. 29/10/1990. He applied for alternate employment or an employment for his son. He placed reliance upon the circular providing for alternate employment with the Corporation dated 10/09/1975. Yet, he was refused alternate employment.

3. The deceased, therefore, filed Complaint (ULP) No.136/1993 before the Industrial Court at Aurangabad. After a complete trial, the Industrial Court concluded on the basis of the oral and documentary evidence that the circular dated 10/09/1975 provides for alternate employment if a driver is declared unfit and if his service record is free from major accidents.

4. While allowing the complaint by the impugned judgment dated 28/08/1995, the Industrial Court concluded that the term “free from major accidents” speaks in the plural tense and hence merely because the deceased committed one accident, would not dis-entitle him from seeking alternate employment. It was concluded that the deceased was not a habitual offender in the sense that he had not habitually committed accidents. There was only one accident on 06/01/1988 when he drove his vehicle at a high speed.

4. By the order dated 04/04/1996 passed by this Court, interim

relief in terms of prayer clause “D” was granted.

5. By order dated 11/10/1996 in CA No.4209/1996 and by order dated 27/11/1996 in this writ petition, the MSRTC was directed to deposit an amount of Rs.74,270/- and the said amount was paid to the deceased respondent. Subsequently, the deceased, who was participating in these proceedings after his retirement, passed away and his legal heirs have been brought on record under the order of this Court dated 01/11/2004.

6. The retirement age of a driver with the MSRTC is 58 years. The impugned judgment was delivered on 28/08/1995 and this Court had stayed the said judgment by order dated 04/04/1996.

7. Having considered the impugned judgment in the light of the ratio laid down by the Hon'ble Supreme Court (3 Judges Bench) in the matter of U.P. State Road Transport Corporation and another Vs. Mohd.Ismail and others, 1991(2) CLR 132, I do not find that the impugned judgment of the Industrial Court would be termed as being perverse or erroneous.

8. As such, this petition, being devoid of merit, is therefore

dismissed. Rule is discharged.

9. Needless to state, the legal heirs of the deceased shall not be entitled for further monetary benefits from the date of his application till his superannuation, considering the fact that the deceased had already withdrawn Rs.74,270/- under the orders of this Court. Nevertheless, the petitioner / Corporation shall calculate the retiral benefits of the deceased petitioner from the date of his joining till his superannuation on 04/05/1995 as being continuous employment. The retiral benefits and pensionary benefits shall be extended to the widow of the deceased or in her absence her legal heirs, as the case may be, within a period of 16 (sixteen) weeks from today.

(RAVINDRA V. GHUGE, J.)