

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5239 OF 1995

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

..Petitioner

Versus

Baburao Dagadu Kale,
Age major, Occ. Ex-Conductor,
R/o Valan, Tq. Rahuri,
District Ahmednagar.

..Respondent

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Advocate for Petitioner : Shri M.K.Goyanka
Advocate for Respondent : Shri P.V.Barde
h/f Shri T.K.Prabhakaran

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CORAM : RAVINDRA V. GHUGE, J.
Dated: September 22, 2016

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ORAL JUDGMENT :-

1. The petitioner is aggrieved by the Part II award dated 8.6.1995, by which, the Reference (IDA) No.40 of 1989 filed by the respondent / employee was allowed and he was granted reinstatement with continuity of service. By way of backwages, Rs.10,000/- have been granted.

2. I have considered the strenuous submissions of the petitioner and the respondent and have gone through the petition paper book with their assistance.

3. The respondent was appointed as a Conductor on 13.4.1972. He was dismissed from service for proved misconduct of not depositing Rs.571.80 on 16.12.1980 and for depositing the same after a delay of one day on 17.12.1980 at 7.15 pm. By the impugned Part II award, considering the Rules and Regulations applicable, the Labour Court concluded that the respondent employee was guilty of temporary mis-appropriation by not depositing Rs.571.80 and keeping the said amount with him for one day. The backwages have been quantified at Rs.10,000/-.

4. It is informed that the respondent was reinstated on 5.5.1996 and he passed away on 12.6.2005. His date of superannuation was 30.4.2007. An amount of Rs.1,25,838/- towards provident fund accumulations have been paid to his widow. Similarly, Rs.1,00,000/- as "Dead Fund", according to the Rules of the Corporation have also been paid to the widow. Gratuity is withheld since this petition is pending.

5. Upon considering the submissions of the learned Advocates and the subsequent events, it is apparent that the respondent was reinstated on 5.5.1996 and after working for 19 years and 1 month, he passed away on 12.6.2005. So also the charge proved against him was for retaining Rs.571.80 for one day.

6. Considering the above, I am inclined to deprive payment of backwages to the respondent (now deceased) for the reason that it would amount to sufficient punishment for having committed a mis-conduct of retaining the money of the Corporation and not depositing the same as per its Rules and Regulations. Needless to state, this order is passed in the peculiar facts of this case and shall, therefore, be restricted only to this case.

7. In the light of the above, the Writ Petition is partly allowed. The direction of payment of backwages of Rs.10,000/- for the period 26.2.1981 upto 4.5.1996 is set aside.

8. Needless to state the gratuity amount shall be paid to the widow of the respondent by the petitioner within eight weeks

from the date on which the said widow submits a succession certificate.

9. Rule is partly made absolute in the above terms.

(RAVINDRA V. GHUGE, J.)

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