

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

**WRIT PETITION NO. 6122 OF 1999
WITH
CIVIL APPLICATION NO. 851 OF 2016
IN
WRIT PETITION NO. 6122 OF 1999**

Chandrakant Vishwanathrao Revenwar
Age: 48 year, Occ.: Unemployed,
R/o. Thigale Galli, Beed.

..PETITIONER

VERSUS

1. Maharashtra State Road Transportation
Corporation, Beed Division, Beed.
Through Divisional Controller.

2. The Divisional Traffic Superintendent
Maharashtra State Road Transportation
Corporation, Beed Division, Beed.

..RESPONDENTS

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Mr. V.R. Mundada, Advocate for petitioner.
Mr. A.B. Dhongagde, Advocate for respondents.

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**CORAM : RAVINDRA V. GHUGE, J.
DATED : 28th JANUARY, 2016**

ORAL JUDGMENT:

The petitioner has moved the civil application for listing the writ petition for final hearing. The learned Counsel for both the parties have addressed the Court on the petition itself, since it is an

old petition and is listed today on Thursday reserved for final hearing of old writ petitions.

2. I have considered the lengthy submissions of Mr. Mundada, learned Counsel for the petitioner-employee and Mr. Dhongade, learned Counsel for the respondent-MSRTC.

3. The petitioner joined duties on 01.04.1971 as Art 'C' Mechanic with the respondent-corporation. He was charge-sheeted because he unauthorisedly carried a co-employee Mr. P.V. Shahane, Security Guard of the respondent-corporation, who wanted to reach Parali in a bus under repair to be delivered at Parali Depot. In a surprise check, it was noticed that said Mr. P.V. Shahane was driving the bus and the petitioner was sitting on the battery box.

4. There are 21 misconducts committed by the petitioner prior to his dismissal in relation to the charge-sheet dated 26.01.1989 after having been held guilty of the misconduct. Out of the 21 punishments imposed on the petitioner earlier, he was dismissed on two occasions, firstly for causing an accident

resulting in death of a person and secondly, for having unauthorisedly taken a bus out of the depot premises for test purposes and driving the said bus on the Beed-Nanded route which caused an accident and killed a person. Another person who was seriously injured in the said accident, died subsequently.

5. Strenuous contention of Mr. Mundada is that the misconduct at issue is of a minor nature. Neither any accident occurred, nor any loss was caused to the respondent-MSRTC.

6. Mr. Dhongade has strenuously supported the impugned judgment and orders of the Labour Court and the Industrial Court, and has prayed for the dismissal of the petition.

7. I have considered the submissions and learned Advocates. However, I cannot ignore one development in the journey of the litigation of the petitioner. The said person Mr. P.V. Shahane (Pralhad Vishwanath Shahane) was also dismissed from services for the misconduct of unauthorizedly driving the bus which the petitioner was supposed to deliver at Parali Depot after repairs.

Under various Court orders, Mr. P.V. Shahane was protected and he continued in service. This Court (Coram: S.C. Dharmadhikari, J.) by its order dated 16.09.2004 delivered in Writ Petition No. 2279/1995 filed by Mr. P.V. Shahane granted relief as under:

“1. This writ petition was admitted by this Court and interim relief granted was to continue till hearing and final disposal of this petition. The interim relief was granted in terms of prayer clauses (C) and (D) by which petitioner continued in services of Maharashtra State Road Transport Corporation. The petitioner has attained the age of superannuation and by filing Civil Application No. 7700/2004 seeks retiral benefits including pension.

2. A charge sheet was served on petitioner alleging that petitioner was driving a bus of Corporation without valid licence and without authority. For this purpose disciplinary proceedings were held and a punishment of dismissal was imposed. In my view, petitioner having served the Corporation by virtue of the interim orders and considering that the misconduct has not caused any loss to the Corporation or loss of life, it is desirable and in the interest of justice that the petition be disposed off without any adjudication on merits and in the light of retirement of petitioner on attaining age of superannuation.

3. *The Corporation shall take steps to release retiral benefits including pension as well as other emoluments in accordance with Rules within a period of eight weeks from today. Rule discharged. Petitioner disposed off.”*

8. Considering subsequent events, this Court by its above reproduced order, has allowed the petition filed by Mr. Shahane and granted him retiral benefits. In the instant case as well, the same incident at issue did not cause any accident and did not cause any physical injuries to any person. So also no loss was caused to the property of the respondent-MSRTC. Unlike the case of Mr. Shahane, the petitioner is out of service from 24.09.1996 and has attained the age of superannuation.

9. In the light of the view taken by this Court in the above reproduced order dated 16.09.2004, I am similarly inclined to dispose of this petition by considering that no loss to the Corporation or loss of life has been caused and therefore notional continuity of service from 24.09.1996 till the date of superannuation be granted to the petitioner. He shall not be

entitled for any monetary reliefs for the period from 24.09.1996 till his superannuation, considering his highly blemished service record. He shall be entitled for retiral benefits including pension as has been granted by this Court in order dated 16.09.2004.

10. This petition is, therefore, disposed of without any adjudication on its merits. However, the petitioner is granted notional continuity of service from 24.09.1996 till the date of retirement and he would be entitled for retiral benefits on the basis of the average last drawn average salary for the months of June, July and August, 1996 and the same shall be deposited in this Court within four months from today. He shall be at liberty to withdraw the same. Rule is discharged.

11. Needless to state that this order has been passed in peculiar circumstances as recorded above and shall not be cited as a precedent.

(RAVINDRA V. GHUGE, J.)