

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

WRIT PETITION NO. 8586 OF 2015

Anwarkhan Gulabkhan Pathan,
Age : 65 years, Occupation : At present Nil,
R/o Old Bus Depot, Khaja Naga,
Galli No.29, Osmanabad,
Taluka and District Osmanabad.

...PETITIONER

-VERSUS-

The Divisional Controller,
MSRTC, Near Ambedkar Statute,
Osmanabad, District Osmanabad.

...RESPONDENT

...
Advocate for Petitioner : Shri Patil Vinod Prakash.
Advocate for Respondent : Shri R.N.Jain h/f Shri D.S.Bagul.
...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 04th October, 2016

Oral Judgment :

1 Rule. Rule made returnable forthwith and heard finally by the
consent of the parties.

2 The Petitioner/ Employee is aggrieved by the judgment of the
Industrial Court dated 23.02.2015 by which Complaint (ULP)

No.125/2012 has been dismissed.

3 I have considered the strenuous submissions of Shri Patil, learned Advocate for the Petitioner and Shri Jain, learned Advocate for the Respondent/ MSRTC.

4 Though the Industrial Court has delivered a detailed judgment, I find that the complaint has been primarily dismissed on the ground of delay. There is no dispute that the increment payable to the Petitioner while in service was Rs.32/-. He retired on 30.04.2009. Thereafter, when he went through his service book and assessed his earnings, he realized that the Respondent/ MSRTC had erroneously stopped 04 increments instead of 03 as punishment imposed by the order of punishment dated 27.03.1997. Stoppage of 04 increments instead of 03, pursuant to the order of punishment, led to the Petitioner suffering loss of payment of Rs.32/- on month to month basis till he retired. Pursuant to his retirement, a shortfall of Rs.32/- had an effect on the calculation of his pension. In my view, this, therefore, was a recurring cause of action and the Industrial Court should have entertained the complaint.

5 There is no dispute that the Petitioner suffered the

punishment of permanent stoppage of 03 increments vide order dated 27.03.1997 and has accepted the same. For the assistance of the Court, the Petitioner has placed on record three pages of his service book and the fourth page is a copy of his order of punishment. The said compilation is collectively marked as Exhibit X for identification.

6 The first page of Exhibit X indicates that with an increment earned by the Petitioner, took his pay in substantive appointment to Rs.1502/- as on 02.11.1994. By subsequent additions, he reached Rs.1662/- as on 24.01.1996. The second page of Exhibit X indicates that the order of punishment dated 27.03.1997 was implemented on 03.04.1997. The pay in substantive appointment of the Petitioner would have reached Rs.1694/- as on 03.04.1997. Due to stoppage of 03 increments of Rs.32/- each, the said amount of Rs.1694/- had to be reduced by Rs.96/- thereby, bringing his pay in substantive appointment to Rs.1598/-. Since the fourth increment of Rs.32/- was deducted, the amount came to Rs.1566/- on 03.04.1997. It is, therefore, apparent that instead of deducting 03 increments, the Respondent/ MSRTC has deducted 04 increments while imposing the punishment dated 27.03.1997.

7 In the light of the above, this Writ Petition is partly allowed.

The impugned judgment of the Industrial Court is quashed and set aside. Complaint (ULP) No.125/2012 is partly allowed by directing the Respondent/ MSRTC to consider the observations of this Court set out herein above and accordingly, recalculate the dues (the fourth increment inadvertently deducted) and make the said payment within a period of TWELVE WEEKS from today to the Petitioner. Similarly, the pensionary benefits of the Petitioner shall be recalculated in the light of the above. The Respondent/ MSRTC is expected to ensure that his pensionary benefits are revised within a period of FIVE MONTHS from today.

8 Rule is made partly absolute in the above terms.

kps

(RAVINDRA V. GHUGE, J.)