

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 15 OF 2003

1. Madhukar Shrirang Sonwane,
Age : 49 years, Occu : Service,
Divisional Controller, Maharashtra
State Road Transport Corporation
Latur, Now at Parbhani.
2. Dattratraya Nivruti Bhelonde,
Age : Major, Occu : Service,
Divisional Traffic Superintendent (Default)
Maharashtra State Road Transport
Corporation, Latur Division,
Latur, District Latur.

Petitioners

VERSUS

Tatyarao Gangaram Mule,
Age : 51 years, resident of
At & Post : Sukani,
Taluka Udgir, District Latur.

Respondent

Smt. R. D. Reddy, Advocate for the Petitioners.
Respondent /(sole) – served.

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(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 21/06/2016

ORAL JUDGMENT :

1. The petitioners are personally present in the Court in pursuance to the order of this Court dated 03.05.2016. None appeared for the respondent on 03.05.2016. None appeared for the

respondent today also.

2. Learned Advocate Mrs. Reddy has appeared on behalf of the petitioners in this matter. This petition was admitted on 17.06.2003. Interim relief was not granted.

3. I have heard the learned Advocate for the petitioners who has criticized the impugned judgment of the Labour Court dated 21.06.2000 by which the criminal complaint filed under Section 48(1) of the MRTU and PULP, Act 1971, has been allowed and the petitioners have been convicted with fine of Rs. 1000/- (Rupees One thousand) each. The petitioners are also aggrieved by the judgment of the Industrial Court dated 29.11.2002 vide which the appeal filed by the petitioners has been dismissed.

4. Mrs.Reddy has strenuously criticized the impugned judgments. Contention is that ad interim protection was granted by the Labour Court dated 26.07.1999 under Section 30(2) thereby directing the petitioners not to dismiss the respondent from service as per the

proposed notice dated 24.07.1999. It is stated that the notice dated 24.07.1999 was a show cause notice proposing the punishment of dismissal from service. It is the contention of the petitioners that the order of the Labour Court dated 26.07.1999 was served upon the petitioners on 27.07.1999. However, by the dismissal order dated 26.07.1999, the respondent was dismissed from service. The said order was served upon the respondent on 31.07.1999.

5. Issue before the Labour Court under Section 48(1) was with regard to the disobedience of an order passed by the Labour Court or the Industrial Court. It is strenuously submitted by Mrs. Reddy that once the order of dismissal was issued, prior to the receipt of the order of the Labour Court, there cannot be any act of wilful disobedience. Since the order of dismissal was dispatched considering the absence of the respondent, as he was before the Labour Court on the same date, action of dismissal is complete and hence there is no disobedience of the directions of the Labour Court. Had the petitioners been aware of the order of the Labour Court and despite the same if the order of dismissal was issued, case of willful

disobedience would be established.

6. I have considered the submissions of the petitioners and have gone through the impugned judgments.

7. In service jurisprudence when a second show cause notice proposing the punishment of dismissal is issued, a reasonable time of seven days is normally made available to the delinquent to put forth his explanation. In the instant case, the show cause notice was dated 24.07.1999. It is stated by Mrs. Reddy on the basis of the record that 72 hours time was given to the respondent vide the said notice. As such, the respondent had been given time upto 27.07.1999 to submit his explanation. Instead of submitting his submission within the 72 hours time is granted, he served a copy of the order of the Labour Court on 27.07.1999. The petitioners, therefore, took a stand that he has already been dismissed on 26.07.1999, which proves that they hurriedly passed the orders of dismissal before the expiry of the notice period.

8. I do not find, that the petitioners had led documentary evidence to indicate that the order of dismissal was dispatched on 26.07.1999. Nevertheless, the said order was served upon the respondent on 31.07.1999 thereby bringing into effect the order of dismissal, though the Labour Court's order preventing the dismissal was received by the petitioners at 1:30 P.M. On 27.07.1999.

9. Considering the above fact situation, I do not find that the Labour Court or the Industrial Court had committed any error in concluding that the petitioners either should have recalled the dismissal order or should have continued the respondent in service to prove their bonafides. I also do not find that the impugned judgments could be termed as being perverse or erroneous.

10. This petition being devoid of merit is, therefore, dismissed.

11. Rule is discharged.

(RAVINDRA V. GHUGE, J.)