

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.7326 OF 2016

1. Govind S/o Bhujangrao Mardode,
Age-51 years, Occu-Service,
Working as Divisional Personnel Officer,
State Transport, Parbhani,
Dist.Parbhani,
R/o S.T.Quarter, Parbhani,
Dist.Parbhani,
 2. Kamlesh S/o Suresh Bhavsar,
Age-31 years, Occu-Service,
Working as Labour Officer,
State Transport, Mumbai Central Office,
Mumbai.
R/o S.T.Officer's Quarter, Thane,
District Thane,
 3. Vasant S/o Ramchandra Sabale,
Age-47 years, Occu-Service,
Working as Senior Clerk, Nanded,
Dist. Nanded,
R/o Manik Nagar, Nanded,
District : Nanded
- PETITIONERS

VERSUS

1. Maharashtra State Road Transport
Corporation, Parbhani Division,
Parbhani,
Through Divisional Controller,
 2. Sadashiv S/o Namdeo Thorat,
Age-26 years, Occu-Nil,
R/o Sawad, Tq. and Dist.Hingoli
- RESPONDENTS

Mr.P.D.Bachate, Advocate for the petitioners.
Mr.D.S.Bagul, Advocate for respondent No.1.
Mr.M.P.Ambekar, Advocate for respondent No.2.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 17/10/2016

ORAL JUDGMENT :

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

2. The petitioners are the Divisional Personnel Officer, Labour Officer and Senior Clerk with the MSRTC. Grievance is that the Labour Court, while dealing with Complaint (ULP) No.47/2014 filed by respondent No.2 herein, has directed respondent No.1 / Corporation to lodge a complaint with the Police Station with regard to the offences said to have been committed by the D.P.O. Supervisor, Senior Clerk, Junior Clerk, respondent No.2 herein and his cousin brother Sunil Trimbak Jagtap.

3. It is submitted as under :-

- [a] On 25/11/2009, the MSRTC published an advertisement for filling in the posts of 'Conductor' at Parbhani and Nanded.
- [b] Respondent No.2 applied at both the places on 27/11/2009.
- [c] A written examination was held on 04/07/2010 between 8.00 a.m. to 10.00 a.m. at Nanded and 11.30 a.m. to 1.30 p.m. at Parbhani, which is 75 kms from Nanded.
- [d] Verification of original documents and interviews were

conducted on 25/11/2010 for Parbhani and 29/11/2010 for Nanded.

- [e] Respondent No.2 was placed in the select list at Sr.No.12 for Parbhani and 17 for Nanded.
- [f] Respondent No.2 was subjected to medical examination subsequently and underwent training on 09/06/2011.
- [g] He was issued with an appointment order on 29/08/2011 in the Parbhani District.
- [h] The cousin brother of respondent No.2 namely Sunil Jagtap appeared for interviews at Nanded on 29/11/2010 posing as respondent No.2, underwent medical examination subsequently and also underwent training for the Nanded district.
- [i] The Civil Surgeon issued the medical certificate in the name of respondent No.2 on the basis of which Sunil Jagtap underwent training and was finally appointed as a Conductor on 27/11/2011.
- [j] In the meanwhile, respondent No.2 was transferred to Hingoli district and on 25/07/2012, while both of them i.e. respondent No.2 and Sunil Jagtap were on duty under the name of respondent No.2, it was revealed that two persons were working as respondent No.2 with the MSRTC.
- [k] Respondent No.2 was subsequently charge sheeted and has been dismissed from service.
- [l] He preferred Complaint (ULP) No.47/2014 before the Labour Court at Nanded challenging the second show cause notice.
- [m] After the rejection of his interim application, he was dismissed from service.
- [n] By judgment dated 16/01/2016, the Labour Court allowed the complaint and while directing the reinstatement of respondent

No.2, has issued directions to the petitioners to lodge a police complaint against certain employees of the MSRTC for allegedly not noticing that a stranger Sunil Trimbak Jagtap had posed as respondent No.2.

4. The contentions of the petitioners are that they are not party to the complaint before the Labour Court and the Labour Court could not have directed the MSRTC to lodge such a complaint. It is further stated that the MSRTC has preferred a Revision Petition No.26/2016 for challenging the order of the Labour Court granting reinstatement to respondent No.2, which has been stayed only to the extent of reinstatement.

5. Mr.Bagul, learned Advocate for the MSRTC submits that the Corporation has stated in paragraph No.24 of its revision petition that the Labour Court cannot have the jurisdiction to direct the respondent/employer to lodge a police complaint against any particular employee of the Corporation. The Industrial Court has only stayed the reinstatement of respondent No.2, but has not stayed the direction to the Corporation to lodge a police complaint.

6. Mr.Bagul further submits that respondent No.2 has lodged a Misc.Application No.503/2014 before the learned Judicial Magistrate,

F.C. at Nanded invoking Section 156(3) of the Criminal Procedure Code against his cousin brother Sunil Jagtap.

7. The learned Advocate for respondent No.2 contends that he is kept out of employment because of the interim order of the Industrial Court. This Court may therefore direct the Corporation to reinstate him in employment.

8. I have considered the submissions of the learned Advocates for the respective sides.

9. At the outset, it needs mention that the prayer of respondent No.2 in this petition cannot be entertained since he is not a petitioner before this Court against the interim order of the Industrial Court dated 05/07/2016.

10. In so far as the challenge posed by these petitioners is concerned, it needs to be noted that the MSRTC itself has challenged the judgment of the Labour Court and has also assailed the directions set out therein by which the Corporation has to file an FIR in the concerned Police Station against some of its employees for having purportedly connived with respondent No.2 and with Sunil

Jagtap in order to accommodate Sunil Jagtap in employment.

11. Considering that the issue is subjudice before the Industrial Court and since these petitioners are not party respondents before the Labour Court, the petitioners do not have the locus-standi to approach this Court by filing this petition.

12. This petition is, therefore, disposed of as being untenable in law.

13. Rule is discharged.

(RAVINDRA V. GHUGE, J.)