

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.9424 OF 2016

Shri. Pradip Sadashiv Chavan

.. Petitioner

Versus

Divisional Traffic Superintendent

MSRTC Thane Division

Opp: Vandana Talkies,

Naupada, Thane and another

.. Respondents

Shri. Shaikh M. Aslam for the Petitioner.

Shri. G. S. Hegde for the Respondent No.2.

CORAM : R.M. SAVANT, J.

DATE : 18th AUGUST 2016

PC.

1 The writ jurisdiction of this Court is invoked against the order dated 19.07.2016 passed by the Learned Member, Industrial Court, Thane, by which order, the Revision Application being Revision Application (ULP) No.34 of 2012 came to be dismissed and resultantly, the order dated 19.03.2012 passed by the Learned Judge, 4th Labour Court, Thane, rejecting application being Complaint (ULP) No.85 of 2009 filed by the Petitioner for interim reliefs came to be confirmed.

2 The Petitioner is working as a conductor with the Respondent

No.1 Maharashtra State Road Transport Corporation. The allegation against the Petitioner was of defalcation of the amount paid for the tickets by re-issuance of tickets to the passengers. In so far as the said allegation is concerned, the same is a matter of charge-sheet issued to the Petitioner pursuant to which an inquiry was held and which inquiry was completed. However since the stage for passing of the final order by the Respondent No.1 was reached, the Petitioner herein filed Complaint (ULP) No.85 of 2009 alleging unfair labour practice against the Respondent No.1 under Items 1(a), (b), (d), (f) and (h) of the MRTU and PULP Act, 1971. In the said complaint, the Petitioner filed an application for interim reliefs Exh.U-2. The said application came to be rejected by the Learned Judge, 4th Labour Court by order dated 19.03.2012.

3 The gist of the reasoning of the Learned Judge of the Labour Court was that the Petitioner i.e. Complainant is allegedly involved in serious charge of defalcation by re-issuance of tickets and that the said charge is relating to public revenue and therefore the inquiry or the show-cause notice cannot be stayed. The Learned Judge therefore held that the Complainant had failed for make out prima-facie case for the grant of interim relief and as indicated above has accordingly rejected the said application by order dated 19.03.2012.

4 The Petitioner aggrieved by the said order dated 19.03.2012 passed by the Learned Judge of the Labour Court challenged the same by way of a Revision filed under Section 44 of the MRTU and PULP Act, 1971. The Revisionary Court i.e. Industrial Court reiterated the finding of the Labour Court by observing that the Complainant is involved in a serious charge of defalcation by reissuance of tickets and that the misconduct levelled against the Complainant is related to public revenue. The Industrial Court therefore did not find any reason to interfere with the order passed by the Labour Court. Hence, both the Courts below have concurrently held that in the facts and circumstances of the case where a serious misconduct of defalcation by re-issuance of the tickets is levelled against the Complainant, no interim reliefs could be granted to the Complainant. In my view, having regard to the said concurrent orders, no case for interference in the writ jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M. SAVANT, J]