

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

WRIT PETITION NO. 10043 OF 2015

M.S.R.T. Corporation,
At Vahatuk Bhavan, Dr.A.Nair Marg,
Mumbai – 400 008.

... Petitioner

v/s

Shri Kamlakar Ramchandra Kasar,
Residing at Pawas, Ratnagiri.

... Respondent

Mr.Gopal K.S. Hegde for the petitioner.

Mr.Shrikrishna R. Ganbawale for the respondent.

CORAM: N.M. JAMDAR, J.

DATED : 24 FEBRUARY 2016

ORAL ORDER:

Heard learned counsel for the parties.

2 The Respondent was working with the Petitioner Corporation as a Conductor. On 23 December 2001 when he was on duty, his bus was checked and it was found that the Respondent had obtained Rs.21/- from one passanger but issued ticket of Rs.11/- only. Charge-sheet was issued against the Respondent and after conclusion of enquiry a show cause notice dated 24 September 2003 indicating punishment of dismissal, was issued. The

Respondent filed Complaint (ULP) No.41 of 2003. The complaint was allowed by the Labour Court on 30 March 2005. Thereafter the Petitioner filed a revision in the Labour Court, Ratnagiri and the Industrial Court by order dated 21 September 2005 partly allowed the Complaint and proceedings were remanded. Upon remand, the Labour Court allowed the complaint by an order dated 22 October 2008. Thereafter the Petitioner issued fresh show cause notice on 25 May 2009 proposing stoppage of increment for three years. This action was challenged by the Petitioner by filing Complaint (ULP) No.151 of 2009 in the Industrial Court, Kolhapur, which is allowed by the impugned order dated 10 October 2014.

3 The Industrial Court, after examining the evidence, has concluded that the Respondent had given cogent explanation as to why he gave ticket of Rs.11/- to one passenger, which was that the tickets of the denomination of Rs.20/- and Rs.10/- were both in red colour kept adjacent to each other in the tray and in hurry he had given a wrong ticket. The witness of the Petitioner also admitted that the ticket of Rs.21/- to be punched at the stage 1 to stage 9 and ticket of Rs.11/- was issued and unpunched ticket of Rs.10/- was available. The availability of unpunched ticket of Rs.10/- lent credence to the defence of the Respondent. Therefore, on merits, the charges against the Respondent could not have been stated as proved. There is no perversity in the findings rendered by the Courts below. As far as the impugned order is concerned, the Industrial Court has rightly taken note of earlier orders and has held that once there was finding that misconduct is not proved,

there was no question of stoppage of increments on the same facts.
There is no perversity in this conclusion.

4 The writ petition is rejected.

(N. M. JAMDAR, J.)