

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

WRIT PETITION NO.1744 OF 2015

Chandrakant S/o Rajaram Borse,
Age 59 years, Occ.Retired
Divisional Controller,
R/o Gut No.287/4, Plot No.23,
Kanchan Colony Near Bajrang
Bridge S.M.I.T. College Road,
Jalgaon-425 001. ... Petitioner.

Versus

1. The State of Maharashtra
through Principal Secretary
Transport Dept. Mantralaya,
Mumbai-32.
(deleted as per order
dt.18.1.2016).

2. The Chairman,
Maharashtra State Road
Transport Corporation,
Central Office, Maharashtra
Vahtuk Bhawan, Dr.Anandrao
Nair Marg, Mumbai-400 008.

3. The Vice Chairman and Managing
Director,
M.S.R.T.C. Central Offices,
Maharashtra Vahtuk Bhawan,
Dr.Anandrao Nair Marg,
Mumbai-400 008.

4. The Joint Managing
Director, M.S.R.T.C.
Central Offices, Maharashtra
Vahtuk Bhawan, Dr.Anandrao
Nair Marg, Mumbai-400 008.

5. The Regional Manager,
M.S.R.T.C. Amravati
Region, Shivajinagar,
Amravati-444 601. ... Respondents.

...
Mr.R.O.Awasarmal, advocate for the petitioner.
Mr.M.B.Bharaswadkar, A.G.P. for the State.
Mr.D.S.Bagul, advocate for Respondent No.5.

...

**CORAM : S.V.GANGAPURWALA AND
K.L.WADANE, JJ.**

Date : 31.01.2017.

ORAL JUDGMENT (Per S.V.Gangapurwala, J.)

1. Heard.

2. Rule. Rule returnable forthwith. With the consent of the parties the petition is taken for final hearing.

3. Learned counsel for petitioner submits that at the relevant time, the petitioner was working as Divisional Controller, Buldhana. Departmental Inquiry was proposed against the petitioner on various charges. The Inquiry report was submitted. The said inquiry report exonerated the petitioner, however, the Disciplinary Authority disagreed with the same

and show cause notice was issued. The petitioner replied the show cause notice. The Disciplinary Authority imposed punishment i.e. the basic pay to be lowered by three stages. The appeal filed by the petitioner came to be dismissed.

4. Mr.Awasarmal, the learned counsel for the petitioner states that not a single charge levelled against the petitioner was proved. The preliminary Inquiry report exonerates the petitioner, still, Departmental Inquiry was proceeded. The Inquiry Officer was appointed. The Inquiry Officer conducted the Departmental Inquiry and submitted report exonerating the petitioner of all the charges. The Disciplinary Authority disagreed. The Disciplinary Authority did not consider that the petitioner had made alternate arrangement and had given five additional drivers and conductors for Akola. This aspect was not considered. The report on record clearly testifies the said fact. The Appellate Authority also did not apply its mind and without assigning any reason has dismissed the appeal.

5. Mr.Bagul, learned counsel for the Respondent states that even if the Inquiry Officer exonerates the delinquent, still, the Disciplinary Authority has every right to differ from the view taken by the Inquiry Officer. The Disciplinary Authority disagreed with the finding of the Inquiry Officer, issued show cause notice to the petitioner. Upon being dis-satisfied with the reply given by the petitioner, the Disciplinary Authority imposed minor punishment upon the petitioner. The acts of the petitioner tantamount to misconduct, indiscipline and lack of supervision. The petitioner though was instructed by Depot Managers about 552 members of INTUC going on strike, no steps were taken by the petitioner to make arrangements, so that inconvenience to the public at large would be avoided. All these aspects are rightly considered.

6. We have considered the submissions. This Court in normal course would not interfere with the findings arrived at in the Disciplinary proceedings nor this Court would sit in appeal

over the appreciation of evidence by the authorities in Disciplinary proceedings. This Court would interfere only if it finds the appreciation of evidence is perverse or due procedure has not been followed.

7. The preliminary Inquiry report submitted by the Joint Director exonerates the petitioner. It states that the petitioner had made necessary arrangements and he had written letter on 8.5.2008 to allot five additional drivers and conductors at Akola, on the ground that on 9.5.2008, 552 persons of INTUC Union were to go on strike. It was also stated in the report that inspite of the fact that additional drivers and conductors were allotted, the Depot Manager, however, stopped plying of the vehicles and the said Depot Manager was the Divisional Secretary of INTUC.

8. In spite of the said preliminary report, the Departmental Inquiry was initiated against the petitioner. Upon conclusion of the Inquiry, the Inquiry Officer submitted report exonerating

the petitioner. The Disciplinary Authority no doubt, has a right to disagree with the Inquiry report but the same has to be for justifiable reasons. The Disciplinary Authority it appears has not taken into consideration the said defence and the aspect of the petitioner making arrangement of additional drivers and conductors and the Depot Manager not implementing it. The Appellate Authority also did not consider this defence. When a different view was taken by the Disciplinary Authority, the defence ought to have been met out by the Disciplinary Authority, more particularly, when the authority disagreed with the finding of the Inquiry Officer. In absence thereof, such a finding could not be sustained.

9. Apart from the said charge, no other charge is levelled.

10. In view of the above, the impugned orders are quashed and set aside. Rule is made

absolute in terms of prayer clauses C and C-1. No costs.

(K.L.WADANE, J.)

(S.V.GANGAPURWALA, J.)

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