

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO.8339 OF 2016  
(Bhagwan Patilba More Vs. MSRTC, Jalna and others)

Mr.A.S.Deshmukh h/f Mr.P.P.Deshpande, Advocate for the petitioner.

( CORAM : RAVINDRA V. GHUGE, J.)

DATE : 14/02/2017

PER COURT :

1. I have heard the learned Advocate for the petitioner for quite some time.

2. The petitioner, who was a bus conductor, was earlier awarded the punishment of dismissal from service dated 09/04/1999. His first department appeal was rejected. By an order dated 14/07/2000, he was appointed as a fresh employee after his second department appeal was allowed. He challenged the same in Complaint (ULP) No.81/2000.

3. The Industrial Court allowed the complaint by judgment dated 22/10/2002, granted reinstatement with continuity to the petitioner and directed the respondent/Corporation to impose punishment with regard to negligence on the part of the petitioner. There is no dispute

that the petitioner was charged with misappropriation as 11 passengers were found travelling ticket-less and it was stated that they had paid the fare to the petitioner.

4. By order dated 21/03/2003, the respondent/Corporation reconsidered the case of the petitioner and awarded him the punishment of reduction of his salary by three stages. This order was challenged in Complaint (ULP) No.78/2013 before the Industrial Court purely on the ground that the punishment of reducing the petitioner to a lower pay scale by 3 stages is a shockingly disproportionate punishment. The Industrial Court, by the impugned judgment, has dismissed the complaint on the ground that the punishment is not shockingly disproportionate.

5. Despite the strenuous submissions of the learned Advocate for the petitioner, I am unable to agree with the contention that the punishment awarded is shockingly disproportionate. The Hon'ble Supreme Court in the matter of Janatha Bazar (South Kanara Central Co-operative Whole Sale Stores Limited) Etc. Vs. The Secretary, Sahakari Noukarana Sangha Etc. [(2000) 7 SCC 517] has concluded that in matters of misappropriation, the amount misappropriated is insignificant in so far as the quantum of

punishment is concerned. Even if the amount is small or little, acts of misappropriation have to be dealt with sternly. The learned Division Bench of this Court in the matter of P.R.Shele Vs. Union of India and others [2008 (2) Mh.L.J. 33] has concluded that when it comes to misappropriation, the punishment of dismissal from service is the only appropriate punishment.

6. In the instant case, the petitioner had succeeded before the Industrial Court in Complaint (ULP) No.81/2000 by judgment dated 22/10/2002. Considering the directions of the Industrial Court, the MSRTC has reviewed the case of the petitioner and has awarded the punishment by order dated 21/03/2003. The Hon'ble Apex Court in the matter of Damoh Panna Sagar Rural Regional Bank Vs. Munna Lal Jain, [2005(104) FLR 291] has held that merely because a punishment may appear to be disproportionate, cannot be the cause of interference in the quantum of punishment. The punishment awarded must be shockingly disproportionate to the gravity and the seriousness of the misconduct.

7. In the instant case, when the petitioner failed to issue tickets to 11 passengers after collecting the fare, the said act has the trappings of misappropriation which is very common with conductors in several

State Road Transport Corporations. In my view, the impugned punishment cannot be said to be shockingly disproportionate to the misconduct committed by the petitioner. The judgment of the Industrial Court dated 05/11/2015, therefore, cannot be said to be perverse or erroneous. This petition, being devoid of merit, is therefore, dismissed.

( RAVINDRA V. GHUGE, J.)