

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8769 OF 2015

Kisan Vishwanath Shelke
Age 61 years, Occ. Retired
R/o Tapneshwar Galli
Jamkhed, Dist. Ahmednagar. ..Petitioner

Versus

Maharashtra State Road Transport
Corporation, Ahmednagar Division,
Sarjepura, Kotla, Ahmednagar
Through it's Divisional Controller. ..Respondent

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Advocate for Petitioner : Shri Barde Parag Vijay
Advocate for Respondent : Shri Deshmukh Bhausaheb S.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: November 22, 2017

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ORAL JUDGMENT:-

1. Heard learned Advocates for the respective parties.
2. Rule.
3. By consent, Rule is made returnable forthwith and the petition is taken up for final disposal.
4. The petitioner is aggrieved by the award dated 6.2.2014,

delivered by the Industrial Tribunal, Ahmednagar, by which, his Reference (IT) No.3 of 2010 has been answered in the negative.

5. I have considered the strenuous submissions of Shri Barde, learned counsel on behalf of the petitioner and Shri Deshmukh, learned counsel on behalf of respondent / Corporation.

6. There is no dispute that the Reference proceedings at issue were initiated by the petitioner in 2010 for challenging 14 enquiries and 14 orders of punishment in a single proceeding. It is also undisputed that the petitioner is aggrieved that the following two issues were not framed in relation to each enquiry and each punishment by the Industrial Tribunal:-

(a) Does the second party workman prove that the enquiry conducted by the management is vitiated for non-compliance of the principles of natural justice?

(b) Whether the second party workman proves that the findings of the enquiry officer in each enquiry are perverse?

7. I find that this case has brought out peculiar facts and circumstances. The document at page No.10 of the petition paper book pertains to the 14 punishments awarded to the petitioner in

between 1996 till 2002. He has superannuated on 31.7.2014. In a common proceeding, all the 14 punishments which were never challenged anytime before, were sought to be challenged by raising an industrial dispute in 2010. The petitioner has already undergone the punishment awarded to him from 1996 till 2002.

8. The learned Advocate for the respondent has strenuously supported the impugned award. He submits that firstly, the appropriate Government should not have referred the dispute to the Industrial Tribunal by permitting the petitioner to raise a challenge to 14 enquiries and 14 punishments in one stroke and that too after a delay of about 8 to 13 years. The appropriate Government should have applied it's mind to the case and should have declined to make a reference. Secondly, though the Industrial Disputes Act does not prescribe any limitation, 14 punishments cannot be subjected to a challenge in a single proceeding since each enquiry will have to be tested independently on it's merits and that would constitute an independent cause of action.

9. Shri Deshmukh, therefore, submits that, if the petitioner is agreeable, the impugned award may be set aside and the said Reference (IT) No. 3 of 2010 could be restricted only to the first punishment imposed on the petitioner on 14.11.1996 in relation to

the offence No. 396/1996. For the rest of the 13 enquiries and punishments, the petitioner may raise independent industrial disputes.

10. In the above backdrop, Shri Barde has consulted the petitioner who is present in the Court and asked him whether he would be inclined to raise 13 industrial disputes with regard to the 13 enquiries and punishments. The petitioner has confirmed with Shri Barde that he is prepared to raise 13 more industrial disputes. Since I found that the petitioner was already superannuated three years ago and would be spending his retired life in Court if this 14 cases are to be conducted, I called upon Shri Barde to once again appraise the petitioner. Despite his best efforts, the petitioner stated that he would contest the first reference and is prepared to raise 13 more industrial disputes and would litigate against the respondent in Court.

11. Considering the above, this petition is partly allowed keeping in view that the above mentioned two issues that are required to be cast by the Industrial Tribunal, keeping in view the law laid down by this Court in the matter of Maharashtra State Roadways Transport Corporation Vs. Syed Saheblal Syed Nijam [2014 III CLR 547 = 2014 (4) Mah.L.J.687] were not cast. The impugned award is

quashed and set aside. Reference (IT) No. 3 of 2010 is remitted to the Industrial Tribunal only with reference to the Case No.396/1996, in which, the petitioner was awarded the punishment on 14.11.1996.

12. With regard to the remaining 13 enquiries and the 13 punishments, keeping in view that the petitioner was not awarded any punishment in Case No.148 of 1998, the petitioner will be at liberty to raise an independent Industrial Dispute in each of these 13 cases and punishments. If such industrial disputes are raised, the appropriate Government / Conciliation Officer shall consider each case on its own merits and shall assign reasons for either referring the dispute or for refusing to refer the dispute.

13. Learned counsel for the respective sides are agreeable to appear before the Industrial Tribunal on 12.12.2017 by treating Reference (IT) No.3 of 2010 as being restricted to Case No.396 of 1996. Formal notices need not be issued.

14. Rule is made partly absolute in the above terms.

(RAVINDRA V. GHUGE, J.)

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