

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

WRIT PETITION NO. 8165 OF 2013

Shri Vijay Kashinath Raghatvan

... Petitioner

Vs

1. State of Maharashtra & Ors.

... Respondents

Mr. Sanjay Kshirsagar for the Petitioner.

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

***CORAM : S.C. DHARMADHIKARI &
B.P. COLABAWALLA, JJ.***

THURSDAY, 09TH MARCH, 2017

P.C. :

1 We have heard Mr. Kshirsagar for the petitioner at some length and with his assistance we have perused the writ petition and the annexures thereto.

2 The writ petition challenges the order dated 11th November, 2006, of the competent authority and the order dated 8th January, 2008, of the Appellate Committee.

3 It is common ground that the petitioner was in the employment of the Maharashtra State Road Transport Corporation. The petitioner has been dismissed from service after a charge-sheet was drawn and duly served and a Inquiry resulting in the charges held as proved.

4 The petitioner attended the Inquiry. The petitioner's version was placed before the Enquiry Officer. The Enquiry Officer did not agree with the defence version and held that the charges have been proved. The charges are very serious, inasmuch as the petitioner remained absent from duties. There was no valid explanation nor any leave as per Rules was availed of. If one avails of leave as per Rules, then, at the end of the leave period, the employee has to report for duty. The petitioner did not even inform his superiors and though posted at a Depot of the State Road Transport Corporation where there was heavy traffic, he failed and neglected to attend his duties.

5 The only argument before us is that there is a serious prejudice caused to the petitioner for when the Enquiry Officer decided to accept the report and imposing upon the petitioner the

penalty, he failed to comply with the rules and regulations. He did not serve a copy of this report nor a show cause notice calling for an explanation of the proposed punishment was addressed to the petitioner and, therefore, the petitioner's version could not be placed before the Enquiry Officer in that regard. Even the Appellate Committee erred in dismissing his appeal on the point of delay.

6 After having perused the petition and the annexures thereto, what we have noted is that the petitioner was proceeded against on account of a serious misconduct. The petitioner remained absent from duty without any leave or prior permission. The petitioner's duties were, therefore, assigned to some other employee at the Depot. This placed an additional burden and strain on them. That is why the petitioner's absence resulted in neglect of the maintenance duties. The petitioner remained absent on several occasions in the month of November, 2004, December, 2004, January, 2005 and February, 2005, similarly in March, 2005. It is common ground that the Maharashtra State Road Transport Corporation operates its buses and its complete fleet for the benefit of the public. It is the

travelling public which had to suffer on account of neglect of duties, no sense of responsibility and lack of sensitivity on the part of the petitioner. He knew that he is a member of a Public Service and yet conducted himself in a manner unbecoming of such an employee. It is this circumstance, namely, maintenance work suffering on account of inadequate staff, which prevails upon us in not interfering with the concurrent orders.

7 The petitioner has not be able to demonstrate any prejudice simply because his representation shows that he was aware of the enquiry proceedings. He gave an explanation which was also unacceptable. The explanation then given and placed at page 38 of the paper-book, namely, that the petitioner's mother was ill, he is alone and it was not possible for him to communicate with his officers, is an after-thought. The petitioner knew that if his parents are old, he has a family to support and there is no source of livelihood other than the income from the salary, then, he should have been conducting himself in a responsible manner. Even the First Appellate Authority found that the petitioner has not committed such an act for the first time. The petitioner was in the service for 12 years. He had 24 years of service left. He

knew his duties and responsibilities. Still, he absented himself. This is not the first time that the petitioner committed such an act. He had about 12 cases of misconduct and proved against him. He had already been deprived of his increments, temporary setting aside or quashing of the increments and other minor punishments to his credit. It is in these circumstances that this overall performance led to the conclusion that such an employee does not deserve to be in the service of the Road Transport Corporation. We should not interfere with such findings of fact on some assumed prejudice. There is no lapse on the part of the Enquiry Officer nor the Appellate Authority. They have performed their duties in accordance with law. If indiscipline and serious misconduct is not punished and visited with serious penalties, then, we would be condoning serious lapses as are committed by parties like the petitioner.

8 It is in these circumstances we do not think that in writ jurisdiction we can grant any relief. The writ petition is dismissed.

B.P. COLABAWALLA, J. S.C. DHARMADHIKARI, J.