

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11159 OF 2015

Maharashtra State Road Transport Corporation ...Petitioner

VS.

Shri Ganesh Madhavrao Jagtap ...Respondent

Mr.P.M.Bhansali I/b. G.S. Hegde for Petitioner.

Mr.Sachin Gite for Respondent No.1.

CORAM : PRASANNA B. VARALE, J.

DATE : 27 SEPTEMBER 2017

P.C. :

Heard learned Counsel appearing for the Petitioner Corporation.

2 The Petitioner challenges the order dated 12 August 2014 passed by the learned Member of the Industrial Court, Nashik. The petition is filed in the year 2015. Respondent No.1, who was working as a conductor at the relevant time, was subjected to a departmental enquiry for the charges of causing loss to the Corporation. In the departmental enquiry, Respondent No.1 was found guilty. An administrative appeal was preferred. In the administrative appeal, the punishment was awarded by stopping the annual increment for six months on the ground that the punishment awarded to Respondent No.1 is shockingly disproportionate and the Corporation has indulged in the act of unfair labour practise. Respondent No.1 was before the Industrial Court. The Industrial Court assessed the material brought it and also the submissions advanced before the Industrial Court. Respondent No.1 though admitted the guilt of punching the tickets, it

was the explanation of Respondent No.1 that due to heavy rush of passengers, there was punching of extra tickets. The learned Member had an occasion to verify the documents in the enquiry. On perusal of the material documents, it was observed by the learned Member that in the inspection carried out by the officer of the Corporation, no passenger without ticket was found in the said bus. The accounts of sale of tickets was verified and there was short of Rs.8/- in the sale of tickets and the tickets amounting to Rs.34/- were found to be erroneously punched. It was the stand of the Petitioner Corporation that the Respondent was intending to resell those punched tickets and it could have been a cause of financial loss to the Corporation. On appreciation of the oral evidence as well as the documentary material, the learned Member found that there was not a single without-ticket passenger in the bus. There were 45 adult passengers and two minor passengers and the passengers were having the travel tickets. The Respondent was not found with any extra ticket, either punched or otherwise. The Respondent specifically took a stand that it was a mistake due to the heavy rush of the passengers. It is also not the case of the Corporation that the service record of Respondent No.1 was showing some earlier instance of his misconduct. Thus, what reveals from the material was it was a solitary act of Respondent No.1, that too with an explanation of a human error. Learned Member of the Tribunal, on appreciation of the material, found that the punishment awarded to Respondent No.1 was shockingly disproportionate and for the said misconduct, the punishment of issuing warning to Respondent No.1 could have been proper punishment. Accordingly, the learned Member of the Industrial Court passed the order thereby setting aside the punishment awarded to Respondent No.1 of stoppage of annual increment of six months by substituting the punishment of warning to Respondent No.1 and the warning to take note in his service

record. Considering all these aspects, in my opinion, the order passed by the learned Member of the Industrial Court is just and proper. Neither any illegality is committed by the learned Member nor the order can be termed as a perverse order seeking any indulgence or interference from this court.

3 The petition, thus, being devoid of merits, deserves to be dismissed and the same is accordingly dismissed.

(PRASANNA B. VARALE, J.)