

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

WRIT PETITION NO. 9725 OF 2018

**AMBADAS RAGHUNATH WAGH
VERSUS
MAHARASHTRA STATE ROAD TRANSPORT CORPORATION
AHMEDNAGAR AND ANOTHER**

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Advocate for the Petitioner : Shri P. V. Barde
Advocate for Respondent Nos. 1 and 2 : Shri S. V. Natu h/f.
Shri B. S. Deshmukh

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 12th OCTOBER, 2018.

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PER COURT :

1. This matter was mentioned at 2.30 p.m. The learned Advocate for the petitioner submits that the matter can be disposed off, I have heard the learned Advocates.

2. On 24/08/2018, I had passed the following order :-

"1. The petitioner who was a Driver and was charged with drunken driving, is before this Court as his Complaint (ULP) No.35 of 2015 challenging the proposed punishment of dismissal has been dismissed by the Labour Court by judgment dated 26.12.2016 and his Revision (ULP) No.1 of 2017

has been dismissed by the Industrial Court by judgment dated 7.8.2018.

2. It is pointed out that the petitioner was before this Court in relation to his prayer for interim relief, which was refused by the Courts below, in Writ Petition No.2495 of 2016. By the judgment of this Court dated 15.3.2016, considering the risk involved in a Driver driving an S.T. bus under the influence of liquor, the MSRTC was directed to permit this petitioner to work as a Sweeper by restricting his duties to the Depot, at which he is posted. It is stated that he continues to work as a Sweeper even today.

3. Learned counsel for the petitioner submits, on instructions, that he is willing to perform the work of a Sweeper, draw a salary of a Sweeper and would not demand the duties of a Driver in the above backdrop. On these conditions, he prays that his services be protected as he is only 33 years of age and his entire family depends on him.

4. Learned Advocate for the respondent / Corporation seeks time to take instructions.

5. The litigation would come to an end if the MSRTC responds positively to the proposal of the petitioner.

6. S.O. to 21.9.2018 in the supplementary board.

7. The petitioner shall continue to work as a Sweeper pursuant to the earlier order of this Court. "

3. The learned Advocate for the respondent/MSRT Corporation places on record a communication dated 01/10/2018, addressed by the Divisional Controller to the learned Advocate, stating that the petitioner can be accommodated as a Sweeper in the category of a Sweeper and he shall be entitled for the salary of the Sweeper. This is being done by way of an exception and would neither lay down a precedent, nor would be cited as a precedent.

4. The said communication dated 1/10/2018 is taken on record and marked as 'X' for identification.

5. In view of the above, this petition is disposed off. The earlier litigation in relation to complaint (ULP) No. 35/2015 thus stands adjudicated upon. The petitioner shall now be deemed to be appointed in the category of a Sweeper and would be entitled to salary scales and services conditions as are applicable to a Sweeper. No grievance as against this arrangement would be entertained by any Authority, Tribunal, Court or the Appellate Authority of the MSRTC. Continuity of service is being granted.

6. It is made clear that henceforth if the petitioner commits any misconduct, the MSRTC would be at liberty to initiate disciplinary proceedings as are permissible under the ***Discipline and Appeal Regulations*** and no leniency or sympathy would then be shown towards the petitioner considering the past record and the result of this petition.

(RAVINDRA V. GHUGE, J.)

shp/-