

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

WRIT PETITION NO.2222 OF 2005

Shri Devidas Janu Chayanakhwa		Petitioner
Versus		
Maharashtra State Road Transport Corporation And Another		Respondents

Mr. Amol B. Desai for the Petitioner.
Mr. G.S. Hegde I/b G.S. Hegde & Associates for the Respondents.

CORAM : S.C.GUPTE, J.

DATE : 19 JULY 2018

P. C. :

Heard learned Counsel for the parties.

2 This petition challenges a revisional order passed by the Industrial Court at Thane, setting aside the order of the Labour Court passed in a complaint of unfair labour practice in favour of the Petitioner herein. The Petitioner was working as a conductor with the Respondent corporation. He was issued a charge-sheet. The charges against the Petitioner were that whilst on duty when his bus was checked, a passenger was found traveling without ticket; that the Petitioner had collected a lesser amount than the fare; and had not issued a ticket and cash was found short on him. A departmental enquiry was held in respect of these charges. The Enquiry Officer held the Petitioner to be guilty of the misconduct alleged against him. The Respondent, thereafter, dismissed the Petitioner from service.

On the Petitioner's complaint of unfair labour practice, the Labour Court quashed the termination order and ordered the Petitioner's reinstatement with 70 per cent back wages. On the Respondent's revision application, the Industrial Court set aside the impugned order of the Labour Court and dismissed the Petitioner's complaint. Being aggrieved, the present petition has been filed by the Petitioner.

3 During the pendency of the petition, the Petitioner has superannuated. He now claims only his retirement benefits including gratuity. Whereas his other retirement benefits have already been paid by the Respondent corporation to the Petitioner, his gratuity is still outstanding. Mr. Hegde, learned Counsel for the Respondent corporation, submits that since, in the present case, services of the Petitioner have been terminated for an act which constituted an offence involving moral turpitude and such act having been committed in the course of his employment, forfeiture of gratuity payable to the Petitioner, wholly or partially, will be considered by the corporation within a period of six weeks from today. In case the Respondent corporation decides to forfeit the Petitioner's gratuity, wholly or partially, the Petitioner has remedies open to him under the provisions of the Payment of Gratuity Act, 1972. In the premises, the present petition does not serve. The petition is dismissed as infructuous.

4 All rights and contentions of the parties on the issue of gratuity payable to the Petitioner are kept open.

(S.C. GUPTE, J.)

Rajesh
Vasant
Chittewan

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by Rajesh Vasant
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