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

**WRIT PETITION NO.4876 OF 2017**

Rajesh Masajirao Irlewad .... Petitioner

Vs.

The Depot Manager, MSRTC .... Respondent
Narayangaon, Dist. Pune

Mr. Nitin Arvind Kulkarni for Petitioner.
Mr. Gopalkrishna Shivram Hegde for Respondent.

**Coram : SMT. SADHANA S. JADHAV, J.**
**Date : 27th August 2018.**

P.C.:

1 Heard the respective Counsel. Rule. Rule made returnable forthwith with consent of the parties.

2 The petitioner happens to be an employee of M.S.R.T.C. and is employed with Pune Division. Being aggrieved by the order dated 1st April 2017 passed by the Industrial Court, Pune, thereby dismissing the Revision Application challenging the order dated 17th

June 2014 passed by the Labour Court, Pune is approached this Court.

3 Learned counsel for the petitioner submits that the charge-sheet was filed against the petitioner on 17th January 2014. A preliminary enquiry was conducted in respect of alleged misconduct of the petitioner as contemplated under Clauses 5, 10, 12(b) and 22 of Schedule 'A' of the Discipline and Appeal Procedure of the Corporation. The enquiry committee appears to have held that the misconduct was proved and hence show cause notice is given to the petitioner calling upon him to answer as to why he should not be terminated.

4 The petitioner had approached the Labour Court at Pune. The said complaint was registered as Complaint U.L.P. No.50 of 2014. The application for interim relief was dismissed by order dated 17th June 2014. Being aggrieved by the said order, the petitioner had approached the Industrial Court. The Industrial Court in the Revision Application has gone into the merits of the matter.

5 Learned counsel for the respondent submits that in fact this is a premature petition as the show cause notice was served upon the petitioner and the petitioner was expected to file a reply within one week, instead the petitioner chose to approach the Labour Court without filing the reply. At this juncture, the learned counsel for the petitioner submits that the petitioner would file a reply to the notice dated 3rd March 2014.

6 The respondent shall consider the reply filed by the petitioner with a reasonable approach and pass the order accordingly within four weeks from the date of filing of reply.

7 In case the respondent is not satisfied with the reply and arrives at a conclusion that the findings recorded are in accordance with law and the punishment is proportionate to the misconduct and imposes punishment upon the petitioner, then the petitioner would be at liberty to approach the Labour Court.

8 The Labour Court shall consider the petition in accordance with law without being influenced by the observations in the orders dated 17th June 2014, 1st April 2017 and the order of the High Court and shall decide the petition on it's own merits.

9 The application seeking interim relief be considered within three weeks from the date of filing of the petition, if any.

10 It is made clear that this order is not passed on the merits of the matter and all that is considered is that the petitioner had approached the Court at a premature stage.

11 Rule is made absolute in the above terms. The Petition stands disposed of.

**(SMT. SADHANA S. JADHAV, J.)**