

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

WRIT PETITION NO.6594 OF 2017

Dattatray N. Mormare

.. Petitioner

Vs.

The Divisional Traffic Officer

MSRTC, Pune.

.. Respondent

Mr. Sarthak S. Diwan for the petitioner.

Mr. Y.P. Deshmukh for the respondent.

CORAM : A.K. MENON, J.

DATED : 25th April, 2018

P.C. :

1. By this writ petition, the petitioner seeks to challenge the impugned judgment dated 5th July, 2017 passed by the Industrial Court, Pune in Revision Application (ULP)no.19 of 2014.
2. The petitioner was employed with the respondent Corporation as a conductor since October 1994. The petitioner was charge sheeted on or about 18th July, 2012. The allegation against the petitioner is that on 11th July, 2012, when he was on duty as a conductor, a surprise check was carried out on the fare collections which revealed that he had recovered an amount of Rs.21/- from three passengers who boarded at Ovhale to go to Pusane Phata, had issued a luggage ticket of Rs.1 and wrote the figure of 2 by black pen. The charge sheet also indicates that excess cash of Rs.36/- was found. A show cause notice

therefore came to be issued on 22nd January, 2014 alleging misappropriation of funds of the respondent Corporation.

3. On 3rd January, 2014 the petitioner filed Complaint (ULP)no.28 of 2014 under the MRTU & PULP Act claiming that the Corporation has been indulged in unfair labour practice. An application Exhibit U-2 came to be filed seeking interim relief against termination of the services of the petitioner. On 12th February, 2014 the interim relief application came to be rejected. As a consequence, the petitioner filed a Revision Application (ULP)no.12 of 2014 before the Industrial Court on or about 24th February, 2014. The Revision Application came to be heard and disposed of on 17th June, 2017. After hearing the parties, interim protection was continued for a period of 15 days. It is in these circumstances, the present petition has been filed.

4. The petitioner's case is that on the day when the alleged incident as stated to have been occurred, the petitioner had mistakenly wrongly pressed the button of Rs.21/- he was yet to issue the required ticket and give the money back to the passengers. Before he could do so, the bus was checked by the respondent and a wrong conclusion was drawn by them. It is also alleged that the statement of the passengers was manipulated and their thumb impressions on the statements were not identified with signature. The petitioner has therefore assailed the impugned order on the basis that the respondent has failed to consider

the circumstances, under which the incident is stated to have occurred.

5. I have perused the impugned order dated 17th June, 2017 passed under Revision Application as well as the order passed on Exhibit U-2 dated 12th February, 2014 the interim relief application. The orders have dealt with facts and have come to a conclusion which in my view cannot be faulted. Nothing has been shown to be perverse in these orders. The petitioner had not replied to the show cause notice although the show cause notice is issued as far back as 22nd January, 2014. The enquiry has not proceeded on account of pendency of the Complaint (ULP)no.28 of 2014 and Revision Application and thereafter this petition.
6. In my view, the impugned orders do not call for any interference in the writ jurisdiction of this Court. However, the petitioner will be given an opportunity to file his reply to the show cause notice. In the circumstances, I pass the following order:-
 - (i) Reply to the show cause notice shall be filed by the petitioner on or before 14th May 2018.
 - (ii) If such reply is filed, the same would be considered by the respondent.
 - (iii) With the aforesaid directions, the writ petition is disposed of.

(A.K. MENON,J.)