

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

WRIT PETITION(ST)NO.20019 OF 2017

Gangadhar Abaji Bathe

.. Petitioner

Vs.

The Divisional Traffic Officer

.. 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.221 of 2013.
2. The petitioner was employed with the respondent Corporation as a conductor since October, 1987. The petitioner was charge sheeted on or about 23rd April, 2010. The allegation against the petitioner was that on 24th January, 2010 when he was on duty as a conductor, a surprise check was carried out on the fare collections which revealed that the petitioner had issued a ticket from Bhore to Wadhane to one senior citizen who was travelling from Karandi to Bhore and recovered Rs.10/- towards fare from him. The charge sheet also indicates that the ticket was reissued and that excess cash of Rs.3/- was found. A show cause notice therefore came to be issued on 4th December, 2013 alleging misappropriation of funds of the respondent Corporation.

3. On 9th December, 2013, the petitioner filed Complaint (ULP)no.104 of 2013 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 December, 2013 the interim relief application came to be rejected. As a consequence, the petitioner filed a Revision Application (ULP)no.221 of 2014 before the Industrial Court on or about 20th December, 2013. The Revision Application came to be heard and disposed of on 5th July, 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 issued appropriate ticket to the senior citizen passenger but the said passenger had not given the correct ticket when verified by the checking squad. It is also alleged that the checking officer had made corrections in his statement. It is also alleged that although the inspection report mentions that Rs.13/- were misappropriated by him the charge sheet disclosed only Rs.10/- to be misappropriated and that none of the passengers were examined. 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 5th July, 2017 passed under Revision Application as well as the order passed on Exhibit U-2 dated 12th December, 2013 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 4th December, 2013. The enquiry has not proceeded on account of pendency of the Complaint (ULP)no.104 of 2013 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.)