

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

WRIT PETITION NO.8198 OF 2017

Pramod Sampat Jadhav

.. 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 : 19TH MARCH, 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 4th May, 2006. The petitioner was charge sheeted on or about 5th June, 2010. The allegation against the petitioner is that on 18th May, 2010 when he was on duty as a conductor, a surprise check was carried out on the fare collections which revealed that one of the passengers had been issued a ticket of Rs.17/- although Rs.34/- was collected for two tickets. However, only one ticket came to be issued. The charge sheet also indicates that excess cash of Rs.2/- was found. A

show cause notice therefore came to be issued on 4th February, 2014 alleging misappropriation of funds of the respondent Corporation.

3. On 13th February, 2014 the petitioner filed Complaint (ULP)no.34 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 24th February, 2014 the interim relief application came to be rejected. As a consequence, the petitioner filed a Revision Application (ULP)no.19 of 2014 before the Industrial Court on or about 11th March, 2014. 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 tickets but due to the heavy rush of passengers, due to exchange and insufficiency of coins and inexperience of handling the new ticket winding machine, he could not verify the exact number of passengers in the bus. It is also alleged that the passenger in question had made a false statement to the effect that only one ticket had been issued. He has refuted the contention that Rs.34/- had been recovered from the

passenger in question. As regards the amount of Rs.2/- found in excess, it was his case that the said amount has to be returned to one of the passengers. 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 24th 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 4th February, 2014. The enquiry has not proceeded on account of pendency of the Complaint (ULP)no.34 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 13th April, 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.)

wadhwa