

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.5099/2015

Dewanand S/o Rajaram Nagose

..Vs..

Maharashtra State Road Transport Corporation, through its Divisional
Controller, Chandrapur Division, Tukum, Chandrapur

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri Mahesh Joshi, Advocate for the petitioner.
Ms. Bhagyashri Reddy, Advocate h/f Shri V.H. Kedar, Advocate for the
respondent.

CORAM : Z.A. HAQ, J.

DATE : 19.1.2018.

Heard.

The petitioner was dismissed from service after it was found in departmental enquiry that the charges of misconduct framed against him were proved. The petitioner had filed complaint before the Labour Court challenging the dismissal order. This complaint was dismissed by the order dated 23rd October, 2002. The order passed by the Labour Court was challenged by the petitioner before the Industrial Court in revision ULP No.21/2002. The Industrial Court allowed the revision application by order dated 12th July, 2005, had set aside the order passed by the Labour Court, quashed the order of dismissal of the petitioner from service and had directed the respondent / employer to reinstate the petitioner. However, the Industrial Court had refused to grant continuity of service and back-wages. Pursuant to

the order passed by the Industrial Court, the petitioner was reinstated in service.

On 3rd December, 2005 a circular is issued by the Corporation - employer to the effect that in certain cases, as specified in the circular, if the employee admits guilt he should not be removed from service and the amount (misappropriated by the employee alongwith the penalty) as specified in the circular, be recovered from him. According to the petitioner, as per this circular the employer received an amount of Rs.6,200/- for the alleged misappropriation which was subject matter of proceedings referred in the earlier paragraph, for granting him continuity of service and back-wages. However, the petitioner is not granted the benefit of the circular.

Being aggrieved by this, the petitioner again approached the Industrial Court by the compliant ULP No.44/2011 which is dismissed by the impugned order. The Industrial Court has recorded that the petitioner is not entitled for benefit of circular dated 3rd December, 2005 as there is already an adjudication in the matter by competent Court earlier i.e. on 12th July, 2005. The Industrial Court has further recorded that the circular dated 3rd December, 2005 would be applicable to cases where the employee admits his guilt, and the employees who deny the charges and contest the matter before competent Court, are not entitled for the benefit of the circular dated 3rd December, 2005.

On examining the matter, I find that the

conclusions of the Industrial Court are proper and cannot be faulted with. I do not see any reason to interfere with the impugned order. The writ petition is **dismissed**. In the circumstances, the parties to bear their own costs.

JUDGE

Tambaskar.