

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4510 OF 2001

The Divisional Controller,
M.S.R.T.C., Aurangabad
Division, Sub-Divisional Office,
Aurangabad.

... Petitioner

Vs.

Shri V. S. Tahalramani
Age 52 years, Occu. Service
R/o House No. 5-12-60,
Padampura, Aurangabad.

... Respondent

Advocate for Petitioner : Smt. R. D. Reddy

CORAM : RAVINDRA V. GHUGE, J.
DATED : MAY 9, 2019

ORAL JUDGMENT :-

1. In the special drive for taking up old final hearing matters in 2017, none appeared for the respondent on 9.5.2017 and 12.5.2017. Even in this special drive, none appeared for the respondent on 6.5.2019 and none appears even today.

2. I have heard the learned advocate for the petitioner / corporation. I have perused the order passed by this Court dated 11.12.2001, by which, this petition was admitted and the amount of Rs. 6,300/-, as directed by the Labour Court, vide the impugned judgment dated 3.3.2001, was directed to be paid by the petitioner to the respondent.

3. Learned advocate for the petitioner / corporation has strenuously criticised the impugned judgment, vide which application (IDA) No. 5 of 1990 filed by the respondent, seeking recovery of money from the employer under Section 33(C)(2) of the Industrial Disputes Act, 1947 was partly allowed and the petitioner was directed to pay an amount of Rs.6,300/- to the employee towards wages for medical leave, unpaid bonus and wages for earned leave.

4. The relief granted by the Labour Court in clause 2 of its order reads as under :

“2. The non-applicants are directed to, pay jointly or severally the amount of Rs.6,300/- towards the wages for medical leave, unpaid bonus and wages for earned leave for 80 days to the applicant within a period of two months from the date of this order, failing which the amount will carry interest @ 9% per annum from the date of order till realisation.”

5. The relief denied by the Labour Court to the employee in clause 3 of the impugned order reads as under :

“3. The remaining claim of the applicant in respect of wages, for 10/1/1987, transfer allowance, provident fund, for 10/1/1987, transfer allowance, provident fund, medical bill, wages for paid holidays, off cancellation, monetary benefits of uniform and free travel pass is denied”

6. Learned advocate for the corporation submits that the leave regulations did not entitle the conductor to medical leave. I find this submission to be quite strange, notwithstanding the fact that, the learned advocate rests her submission on the leave regulations. It is unconscionable for the M.S.R.T.C. to grant medical leave to other employees and deny such medical leave to Bus Conductors who have an onerous burden of performing duties. It is common knowledge that Bus Conductors and Bus Drivers suffer rigours of employment on account of the nature of their duties and it is unimaginable to believe that the MSRTC does not prescribe medical leave to Bus Conductor. In the interest of justice and kindness, I deem it appropriate to request the learned advocate for the corporation to bring this to the notice of the M.S.R.T.C. It should initiate steps to remove this discrimination between the employees.

7. I find from the impugned judgment that the Labour Court has carefully gone through the leave regulations placed on record at Exhibit 'C-17B'. It is concluded that the leave regulation entitled employees to earned leave, in respect of period spent on duty. The employee had above 100 days earned leave in balance, prior to his dismissal from service. He had earned leave of 220 days for having worked from 1982. He was paid wages for 100 days of earned leave when the ceiling was of 180 days. The Labour Court, therefore,

concluded that he was entitled for earned leave for 80 days.

8. In so far as the medical leave is concerned, the Labour Court concluded that he was entitled for medical leave during 1.10.1981 to 8.12.1981 for an amount of Rs.2,000/-. He was entitled for unpaid bonus amount of Rs.1,500/- and earned leave for 80 days of an amount of Rs. 2,800/-. The total amount payable was of Rs.6,300/-.

9. Considering the above, merely because a different view is possible, cannot be a ground for causing interference in the impugned order. This petition being devoid of merits, is therefore, dismissed. Rule is discharged.

10. Learned advocate for the corporation is not aware as to whether the amount of Rs.6,300/- was deposited in this Court or directly paid to the employee, pursuant to the order of this Court dated 11.12.2001. I, therefore, conclude that if the amount is deposited in this Court, and is still not withdrawn, the respondent / employee would withdraw the said amount with accrued interest, without conditions, upon being identified by an advocate and upon tendering his recent photograph, identity proof, recent residential proof and self attested Election Commission's Voter Identity Card.

(RAVINDRA V. GHUGE, J.)