

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5117 OF 2018

Sahebrao S/o Raghunath Ahirrao
Age 52 years, occ. service
r/o P No. 47, Vikash Colony,
Perejpur Road,
Sakari, Dist. Dhule

Petitioner

Versus

The Divisional Controller
Maharashtra State Road Transport
Corporation, Dhule
Division Dhule.

Respondent

Mr. B.R. Jayabhar, Advocate for the petitioner.
Mr. Dipesh Pande, Advocate holding for Mr. D.S. Bagul, Advocate
for the respondent.

CORAM : M.S. KARNIK, J.
DATE : 20th August, 2019.

JUDGMENT :

1. Rule. Rule made returnable forthwith.
2. Heard finally at admission stage with the consent of learned counsel for the respective parties.
3. A domestic enquiry was conducted against the petitioner-bus driver employed with respondent-Maharashtra State Road Transport Corporation, Dhule, in which, punishment of stoppage of annual increment for one year was awarded. Petitioner was driving the bus and it is alleged that the bus met with an accident. Learned counsel for the petitioner invited my attention to the

findings of the

Industrial Court and would submit that none of the witnesses who were present on the spot are examined. He would further submit that even the passengers have not been examined. According to the learned counsel, the truck driver was negligent and even criminal prosecution has been initiated against the truck driver for rash and negligent driving. Learned counsel would further submit that the materials on record would go to show that the petitioner was not on the wrong side but it was the truck driver who was driving the truck on the wrong side. He would further submit that the punishment awarded is disproportionate to the proved misconduct. According to him, when the truck driver is at fault, respondent could not have imposed punishment against petitioner only because the bus has suffered some damage and two passengers in the bus were injured.

4. Learned counsel for the respondent supported the impugned order passed by the Industrial Court.

5. I have gone through the memo of petition and the annexures thereto. The Industrial Court was of the opinion that the enquiry conducted was against the principles of natural justice and the finding recorded by the Enquiry Officer are perverse. An opportunity was given to the respondent to adduce evidence during the course of proceedings before the Industrial Court. Respondent examined the Depot Manager. Petitioner however did not step into the witness box. It reveals from the record that the bus has suffered damage and two persons are injured in the accident. No doubt, criminal prosecution has been initiated against the truck

driver and it is stated that the truck driver is negligent, but materials on record would reveal that even petitioner was negligent. The map available on record indicates that the accident took place while negotiating a turn. It is not the case of the petitioner that he had taken all precautions before crossing the highway. The Industrial Court observed that the vehicle running on the main road has a prior right of passing and the vehicle approaching from the side road should give way to the vehicle moving on the main road. It is in this view of the matter, that the Industrial Court found that the petitioner did not take requisite precaution and thus he was also negligent while negotiating a turn.

6. So far as the punishment of stoppage of annual increment for one year is concerned, the same cannot be said to be disproportionate to the mis-conduct proved. It is a matter of record that petitioner has been punished on as many as 17 occasions. This aspect has been taken into consideration by the Industrial Court while coming to the conclusion that the punishment is not shockingly disproportionate.

7. I see no reason to interfere with the findings of the Industrial Court which are based on the materials on record. Petition is therefore dismissed. Rule is discharged with no order as to costs.

(M.S. KARNIK, J.)

dyb/