

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 6007 OF 2019

**THE MAHARASHTRA STATE ROAD TRANSPORT
CORPORATION THROUGH DIVISIONAL CONTROLLER
VERSUS
VIJAYKUMAR APPARAO RAUT**

...

Advocate for the Petitioner : Shri D. S. Bagul with
Shri Dinesh Pande

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 19th SEPTEMBER, 2019.

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PER COURT :

1. The petitioner MSRT Corporation is aggrieved by the interlocutory order dated 05/02/2018 passed by the Industrial Court, Latur, by which, application Exhibit U-12 filed by the original complainant in Complaint ULP No. 27/2017, has been allowed.

2. The learned Advocate for the petitioner has strenuously criticized the impugned order. He primarily contends that the ULP Complaint was premature. He then contends that Rule 83 (a) relied upon by the workman, would not entitle him for 100% suspension allowance. His case can be referred to the

Review Committee of the Corporation after completion of one year and thereafter his case could be considered either for continuation of suspension or for revocation of suspension in view of the circular No. 9/17 dated 18/03/2017.

3. Notwithstanding the strenuous submissions of the learned Advocate, it calls for no debate that a suspended employee can challenge his suspension and can also raise a grievance of non payment of requisite suspension allowance. It cannot be overlooked that if a charge-sheeted and suspended employee is not paid suspension allowance, it amounts to weakening his defence and this would seriously affect the merits of the disciplinary inquiry.

4. Under Rule 83 (a) of the Service Rules under Chapter V applicable to the Corporation, an employee can be suspended for a period of 90 days and after the expiry of the said period, the said suspension can be continued for a further period of 90 days in exceptional cases. It is therefore, open to the complainant to argue that after 180 days, his suspension becomes non effective.

5. The Model Standing Orders framed under the Industrial Employment (Standing Orders) Act, 1946 provides for 50 % suspension allowance for the first 90 days of suspension, followed by 75 % allowance for a further period of 90 days and then 100 % salary if the suspension continues beyond 180 days.

6. As such, if this case is looked into from any angle, the complainant would be entitled for 100 % subsistence allowance. The Industrial Court has granted the complainant the subsistence allowance and the said order does not appear to be perverse or erroneous.

7. This petition being devoid of merit is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)

shp/-