

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8010 OF 2018

Shri Ishwar Laxman Dhangar
age 38 years, occ. Service
r/o Kalamsara, Tq. Pahora
Dist. Jalgaon

Petitioner

Versus

1. The Divisional Traffic Superintendent
The Maharashtra State Road Transport
Corporation,
Jalgaon Division,
Jalgaon.

2. The Divisional Controller
The Maharashtra State Road Transport
Corporation,
Jalgaon Division,
Jalgaon

Respondents

Mr. M.M. Bhokarikar, Advocate for the petitioner.

Mr. M.K. Goyanka, Advocate for respondents.

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. By this petition filed under Article 227 of the Constitution of India, the petitioner challenges the judgment and order passed by the Industrial Court dismissing the complaint of unfair labour

practice filed under Section 28 r/w items 5, 9 and 10 of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971.

4. Petitioner is in the employment of Maharashtra State Road Transport Corporation as a bus driver. He came to be issued with a charge-sheet alleging that on 10.07.2010, when he was assigned the duty to drive the bus from Neri to Jamner, the bus driven by the petitioner dashed the bus coming from the opposite side. It is the charge that petitioner was driving the bus in rash and negligent manner.

5. The evidence on record reveals that the petitioner left the steering wheel and jumped from the driver seat to the battery box. As a result, the bus went out of control and dashed against the bus coming from the opposite direction. Almost 25 passengers were injured.

6. The charges levelled against the petitioner were proved in the departmental enquiry. The disciplinary authority imposed punishment of reduction of pay by two stages with no effect on the yearly increment.

7. Petitioner challenged the punishment order by filing complaint before the Industrial Court contending that the enquiry was conducted without observing the principles of natural justice and the findings of the Enquiry Officer were perverse.

8. The respondents led evidence to prove the charges before the

Industrial Court. Respondent examined Shri Indrasing Keshav Magare – the driver of the opposite bus and Shri Chakradhar Gajrnal Patil – the Depot Manager. The complainant examined himself at Exhibit U-9. The Industrial Court, upon considering the evidence, came to the conclusion that the charges are proved and the punishment imposed on the petitioner is not disproportionate.

9. Learned counsel for the petitioner submits that the accident occurred due to mechanical fault. He invited my attention to page no. 16 of the paper book which is a reply filed by the petitioner to the charge-sheet. Learned counsel would submit that the petitioner was driving the bus carefully and at moderate speed. He would further submit that main leaf of the bus was broken as a result of which, the accident occurred. It is moreover his submission that the passengers in the bus were not examined. Learned counsel would submit that the punishment imposed is shockingly disproportionate. He would rely upon the decision of this Court in the case of Colour-Chem Limited Vs. A.L. Alaspurkar and others reported in **1998 AIR SCW 709** to submit that the labour laws are beneficial legislation and therefore liberal interpretation has to be given to labour welfare legislations. He would further submit that the mis-conduct on the part of the petitioner can best be categorised as of minor and technical nature and therefore, the punishment imposed is shockingly disproportionate. He would urge that no independent witnesses are examined to support the case of the department. He would further urge that the petitioner has been acquitted of the criminal prosecution that was initiated against him. According to him, if on the very same set of evidence the petitioner has been acquitted of

the charges in departmental proceedings, the petitioner deserves to be exonerated. He would further submit that the rules do not prescribe the punishment which has been imposed by the disciplinary authority.

10. On the other hand, learned counsel for the respondents has supported the impugned order. He would invite my attention to the findings recorded by the Industrial Court and submit that having regard to the manner in which the accident has occurred, no interference in the impugned order is warranted.

11. I have heard learned counsel for the respective parties and gone through the findings of the Industrial Court. It is the stand of the petitioner that the accident has occurred because of technical failure as the main leaf of the bus was broken. However, the statement of the conductor of the bus would reveal that the main leaf broke down almost ten kilometers before the place where the accident has occurred. It is stated in the evidence that the main leaf was kept in the driver's cabin. The evidence of driver of the bus coming from the opposite direction would reveal that the petitioner jumped from the driver seat leaving the steering free, as a result of which, the bus went out of control and dashed against the bus coming from the opposite direction. Almost 25 passengers were injured. The charges against the petitioner were duly proved before the Industrial Court. Having gone through the order passed by the Industrial Court, in my opinion, the finding cannot be said to be perverse or unreasonable so as to warrant any interference.

12. So far as the question of proportionality of punishment is

concerned, the punishment imposed is reduction of pay by two stages. For the proved mis-conduct, it is discretion of the management to impose the appropriate punishment. No doubt, this Court can interfere with the quantum of punishment if the same is dis-proportionate. However, having regard to the facts and circumstances on record and the manner in which the accident occurred, it cannot be said that the mis-conduct is of minor or technical nature. In my opinion, the punishment cannot be said to be disproportionate to the mis-conduct proved.

13. In this view of the matter, the impugned order passed by the Industrial Court does not warrant any interference. The petition is dismissed. Rule is discharged with no order as to costs.

(M.S. KARNIK, J.)

dyb/