

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

WRIT PETITION NO.13853 OF 2019

SANTOSH KISHANRAO HENGADE

VERSUS

THE DIVISIONAL CONTROLLER MAHARASHTRA STATE ROAD
TRANSPORT CORPORATION NANDED

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Advocate for the Petitioner : Shri Kale Mahesh P.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 18th November, 2019

Per Court:

1 The petitioner is aggrieved by the interlocutory order dated 07.10.2019 passed by the Industrial Court, Jalna by which, the application exhibit U-2 filed by the petitioner seeking interim relief under Section 30(2) of the MRTU & PULP Act, 1971, has been rejected.

2 Complaint (ULP) No.149/2019 is pending final adjudication.

3 The petitioner was aggrieved by the transfer order dated 31.07.2019 by which, he was transferred from Nanded Depot to Mahur Depot. It was alleged that the transfer order is unsustainable under items 3, 9 and 10 of Schedule IV. It is further canvassed that his father is ill on account of an accident, his son who is eight years old has to be taken care of, his brother is in the military and therefore, the family of the brother

has also to be looked after. He has been recently transferred from Nagpur to Nanded on request.

4 The learned advocate for the petitioner submits that the petitioner has not committed any misconduct and there is no reason for the respondent/ MSRTC to transfer his services from Nanded to Mahur, which is a distance of about 150 kilometers.

5 I find from the record available that the MSRTC has introduced circular nos.2/2017, 38/2017 and 46/2017. The MSRTC has taken a policy decision that if a bus conductor is found to have indulged in misconducts of misappropriation for more than three times, he would be moved out of the depot. This policy has been implemented uniformly.

6 The record reveals that the petitioner was found to have indulged in the acts of misappropriation as a bus conductor on more than three occasions. Ticket-less passengers traveling or used tickets being distributed or fare being collected and tickets not being issued, etc., are some of the misconducts said to have been committed by the petitioner.

7 Considering the above, I do not find that an element of victimization under the guise of following management policy, appears in this matter.

8 I find from the impugned reasoned order passed by the Industrial Court that the same cannot be branded as being perverse or erroneous. Transfer is a normal incident of service and considering the

circulars of the MSRTC, at a prima facie stage, the transfer order cannot be faulted.

9 In view of the above, this Writ Petition is dismissed. However, the Industrial Court shall note that while deciding Complaint (ULP) No.149/2019 finally, it shall not be influenced by any observation in the impugned order and shall decide the complaint on its own merits in the light of the oral and documentary evidence.

kps

(RAVINDRA V. GHUGE, J.)