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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
LETTERS PATENT APPEAL NO. 140 OF 2008
IN
WRIT PETITION NO. 2454 OF 2006

Shri P. G. Phadtare
Phattasing Chowk, Phadiare,
Wada, Akkalkot,
Dist. Solapur.

.. Appellant

Versus

Maharashtra State Road Transport
Corporation, having its office
At Vahatuk Bhavan, Dr. A. Hair Marg,
Dellasis Road, Bombay Central,
Bombay 400 008.

.. Respondents

Mr. V. M. Parkar for Appellant.

Mr. C. M. Lokesh i/by G. S. Hegde & Associates for Respondent.

CORAM: PRADEEP NANDRAJOG, CJ. &
SMT. BHARATI DANGRE, J.

NOVEMBER 27, 2019.

ORAL JUDGMENT [Per Pradeep Nandrajog, CJ.] :

1. Heard learned Counsel for the parties.

2. The Appellant-workman had filed a Complaint before the Labour Court, Solapur alleging unfair labour practice. Working as a driver, he complained that a charge-sheet was issued to him on 9th May, 1998 followed by an inquiry conducted resulting in a show cause notice issued to him on 26th November, 1998 requiring him to respond as to why he be not dismissed from service. The Appellant challenged the said notice and obtained an interim order from the Labour Court restraining the Respondent to give effect to the show cause notice dated 26th November, 1998.

3. Evidence was led before the learned Labour Court. On merits of the inquiry, the learned Labour Court returned a finding that the charge levied against the Appellant was proved.

4. However, the learned Labour Court took the view that keeping in view the indictment as per charge, no case was made out to dismiss the Appellant and the result was the show cause notice dated 26th November, 1998 being quashed. The Respondent was granted liberty to impose punishment of stoppage of one increment permanently on the Appellant. The Respondent challenged the Award dated 30th November, 2002

by filing a revision before the Industrial Court, Solapur registered as Revision (ULP) No. 6 of 2003 which was dismissed vide order dated 23rd June, 2004. The onward march by the Respondent was when Writ Petition No. 2454 of 2006 was filed. Vide impugned order dated 10th October, 2007 Rule has been issued.

5. The impugned order passed in revision and the original complaint have been stayed by the learned Single Judge on the following four conditions:

“(i) The Petitioner shall issue a fresh show cause notice to the Respondent on the same basis as the show cause notice dated 26th November, 1998 pursuant to which the Respondent – workman had filed Complaint (ULP) No. 189 of 1998. The show cause notice will be issued within two weeks from today.

(ii) The Respondent – workman shall reply to the show cause notice within two weeks from the receipt thereof.

(iii) In the event, the Petitioner is dissatisfied with the reply to the show cause notice and desires to terminate the services of the

Respondent – workman, the Petitioner may pass the order of termination. However, that order shall be kept in abeyance for a period of two weeks after it is served upon the Respondent-workman.

(iv) In the event the Respondent challenges any order passed by the Petitioner-Corporation, the Court dealing with the challenge will not be influenced by the impugned orders in this Writ Petition. Nor will the Court be influenced by the fact that the Respondent – workman has continued in service since 1998 till today, as he has done so only because of orders of the Courts.”

6. Suffice it to state, the effect of the impugned interim order would be that without deciding the writ petition the service of the Appellant could be terminated for the reason the Respondent has been given a right to issue another show cause of a kind which may result in the service of the Appellant being terminated.

7. Such a sweeping interim order could not have been

passed by the learned Single Judge and thus we dispose of the Appeal setting aside the third paragraph of the impugned order which stays the operation of the two orders challenged by the MSRTC in the writ petition upon the four conditions recorded by the learned Single Judge.

8. No costs.

Pravin D.
Pandit

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by Pravin D.
Pandit
Date: 2019.11.28
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SMT. BHARATI DANGRE, J.

CHIEF JUSTICE