

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.12074 OF 2015

Maharashtra State Road Transport Corporation ... Petitioner
Versus
Ganesh Khandu More ... Respondent

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Mr. G.S. Hegde for the petitioner.
None for the respondent.

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CORAM : M. S. KARNIK, J.

DATE : 16th APRIL, 2019.

P. C.:

1. Heard learned Counsel for the petitioner.
2. This Court on 12th January, 2016 passed the following order :-

“P.C.:

Heard learned counsel for the Petitioner.

2. The Labour Court, Nasik, after considering the evidence and the conclusion in the enquiry and that the Respondent was freshly recruited person and it was his first misconduct, has rightly held that the punishment of dismissal was unduly harsh. Learned counsel for the Petitioner, however, is justified in submitting that the direction to reinstate the Respondent without back wages is no punishment at all and will embolden him to commit misconducts in future. Though I have held that the punishment of dismissal is unduly harsh as a deterrent, prima facie, lesser punishment can be imposed.

3. Issue notice to the Respondent on this aspect of imposition of lesser punishment, returnable on the next C.M.I.S. date i.e. 29 February 2016. In addition, the petitioner is permitted to serve the respondent with private notice through Registered A.D./Speed post/Fax and file an affidavit of service before the returnable date.

4. It is clarified that there is no stay to the order directing the Petitioner to reinstate the Respondent. The order is passed in June 2013. If the Respondent is not yet reinstated, the same shall be done within a period of two weeks failing which the consequences provided by the Labour Court will ensue.

3. Respondent is duly served. Despite service he is not present. Shri Hegde has submitted that pursuant to this order, the respondent again committed some misconduct for which he was charge-sheeted and now he is dismissed. As the respondent is already dismissed from service no useful purpose will be served by keeping this petition pending. As can be seen from the above order, the whole object of imposing some punishment on the respondent was that he is not emboldened in future to commit misconduct.. During the pendency of this petition the respondent committed the misconduct for which he is now dismissed.

4. Shri Hegde apprehends that if this dismissal is challenged and the respondent succeeds, then the respondent will get away with the punishment which otherwise could have been imposed in terms of the order dated 12.01.2016 in this Petition. There is substance in the contention of Shri Hegde. Therefore, in my opinion if the petitioner is granted liberty to revive the present proceeding in the event the order dismissing the respondent is interfered with, the same shall subserve the ends of justice.

5. Keeping this liberty open the Writ Petition is dismissed.

(**M. S. KARNIK, J.**)