

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1233 OF 2017

Jayawant Vithoji Mohite.

..Petitioner.

Versus

Maharashtra State Road Transport
Corporation & Others.

..Respondents.

Ms. Sneha Phene I/b Gireesh U. G. Menon for the Petitioner.

Mr. T. P. Deshmukh for Respondent No. 1 to 3.

Coram : RANJIT MORE &
SMT. BHARATI H. DANGRE, JJ.

Date : **March 12, 2019.**

P. C. :

1. Heard learned counsel appearing for the respective parties.
2. By this petition, the Petitioner is seeking direction to the Respondents to pay a sum of Rs.20,47,466/- towards the backwages for the period between 1st October 2013 and 29th December 2015.
3. The Petitioner was working as a personal secretary to the Chairman of MSRTC. The Petitioner was issued charge-sheet in the year 2012. It was alleged that he had unnecessarily stopped the facility of platform ticket being issued at Mumbai Central Bus Station and the printing cost of ticket was 2 paise and due to issuance of platform ticket through Electronic Ticket Issuing Machine, 21 paise per ticket was paid to Trimax company and corporation sustained loss of

Rs.2,34,426/-. Subsequently, the enquiry committee was appointed and in pursuance of the report of enquiry committee, the Petitioner was discharged from service on 1st October 2013. The Petitioner thereafter filed departmental appeal. However, the same was dismissed. Therefore, the Petitioner approached this Court by filing writ petition, bearing Writ Petition No.1848 of 2014. That writ petition was partly allowed and the order of the appellate authority was quashed and set aside and the matter was remanded back to the appellate authority for reconsideration on all points. On remand, the appellate authority passed fresh orders on 26th November 2015 whereby the order under which the Petitioner was discharged from service was set aside and he was reinstated in the service of the Respondent-Corporation. However, for the act of negligence, the Petitioner was warned and instructed to take utmost care to avoid such repetition.

4. As stated above, the Petitioner has approached this Court for backwages for the period between the date of discharge and date of reinstatement.

5. Learned counsel for the Respondent-Corporation pointed out that there is no finding by the appellate authority regarding the entitlement of the Petitioner for backwages for the said

period and in the absence of the same, petitioner cannot directly approach this Court by filing writ petition seeking writ of mandamus. Learned counsel for the Respondent-Corporation submitted that in terms of Regulation 84 of Service Regulations, it is for the competent authority to decide the Petitioner's entitlement for the backwages and allowances for the period between the date of discharge and date of reinstatement. He submitted that without following this remedy, the Petitioner has approached this Court invoking the jurisdiction of this Court under Article 226 of the Constitution of India, which is not maintainable.

6. The learned counsel for the Petitioner faced with this situation, submitted that directions may be given to the competent authority to decide the Petitioner's claim raised in the petition in accordance with Regulation 84 of Service Regulations. In the circumstances, we dispose of this petition by directing Respondent No. 2 - the Vice Chairman/Managing Director – competent authority of the Respondent-Corporation to decide the Petitioners' claim for backwages and allowances for the period between the date of discharge and date of reinstatement under Regulation No.84 of Service Regulations in the light of decision of the appellate authority referred to above, as expeditiously as possible and preferably within

the period of eight weeks from today. The competent authority while deciding the said claim of the Petitioner shall give an opportunity of hearing to the Petitioner. The petition stands disposed of.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]