

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2543 OF 2020

DIVISIONAL CONTROLLER MAHARASHTRA ROAD TRANSPORT
CORPORATION
VERSUS
BALIKA PANDIT RAJMANE

Mr.M.K.Goyanka, Advocate for the petitioner.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 17/02/2020

PER COURT :

1. The petitioner/MSRTC is aggrieved by the judgment and order dated 29/10/2018 delivered by the Industrial Court at Latur, by which the Revision (ULP) No.4/2018 filed by the respondent/original complainant, was allowed and it was held that the respondent/widow can prosecute the cause of action suffered by her husband, who died before he could challenge his dismissal from service.

2. Mr.Goyanka, the learned Advocate for the petitioner has strenuously criticized the impugned judgment and placed his reliance on the 10 grounds formulated in the memo of the petition.

3. I find from the record that the deceased employee had joined duties as a Bus Conductor on 24/04/2005. He was brought on time scale on 29/06/2007. He was unauthorizedly absent from 30/06/2015 till the issuance of the charge sheet dated 10/10/2015. He did not participate in the enquiry and he was dismissed from service by way of punishment on 28/12/2015. He was continuously ill. He died on 20/02/2016 within the limitation period which was available to him till 28/03/2016.

4. This Court has delivered a judgment on identical set of facts in the matter of Yogeshwari Shikshan Sanstha and another Vs. Sujata Prakash Ansarwadkar and another [2017(1) Mh.L.J.868 = 2017(5) Bom.C.R.174] and based on a view taken by the Hon'ble Apex Court, this Court concluded that, had the employee been alive, he would have assailed his dismissal/termination. Under fortuitous circumstances, he died before raising a challenge. Had he raised a challenge and had died during litigation, benefits from the litigation, if he was to succeed, would have been available to the widow.

5. Considering the same, I find that the learned Industrial Court, Latur has not erred in allowing the Revision (ULP) and has taken an appropriate view.

6. This petition, being devoid of merit, is therefore, dismissed.

(Ravindra V.Ghuge, J.)