

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

**WRIT PETITION NO.3432 OF 2020**

**YASEEN KHAN HAMEED KHAN  
VERSUS  
MAHARASHTRA STATE ROAD TRANSPORT CORPORATION THROUGH  
ITS VICE CHAIRMAN AND MANAGING DIRECTOR AND ANOTHER**

...  
Advocate for Petitioner : Mr. Parag P. Shahane And  
Mr. Pradeep Shahane  
Advocate for Respondents No. 1 & 2 : Mr. A. B. Dhongade  
...

**CORAM : RAVINDRA V. GHUGE AND  
S. G. MEHARE, JJ.**

**DATE : 29<sup>th</sup> SEPTEMBER, 2021**

**PER COURT :**

1. We have heard the learned advocates for the respective sides, and have perused the petition and paper book with their assistance. Considering the order that we are passing, we need not advert to the contentious issues that have been canvased before us. Suffice it to say that the impugned order dated 31-01-2020, recalling the earlier order dated 23-10-2018 by which pay fixation of the petitioner was sanctioned, has been passed by the respondent corporation without hearing the petitioner.

2. The petitioner joined service on 01-06-2007 at a consolidated monthly pay of Rs.2,900/-. For a period 2008-2012, there was a settlement between the Corporation and the Union representing all the employees. On 01-04-2012, the petitioner was

brought on time scale. In between 2012-2016, he earned his increments and his salary grew. Presently, he is about 44 years of age and is a traffic inspector at the Bhokar Depot, Nanded.

3. The Corporation does not dispute that the impugned order has been passed without any hearing. No show cause notice was issued.

4. We find that, if the petitioner was a workman, he would have been protected by Section 9(A) – Notice of change, of the then Industrial Disputes Act, 1947, presently the Industrial Relations Code. Section 9(A) restrains an employer from altering the service conditions of an employee, inclusive of any alteration in his salary scale, without issuing a notice of change, with 21 days notice period. In the instant case, the least that is expected is adherence to the principles of natural justice.

5. In view of the above, this petition is partly allowed only on the ground that the impugned order was passed without granting an opportunity of hearing to the petitioner. As such, the impugned order shall be kept in abeyance and we direct as under :-

- a) The petitioner shall appear before the Divisional Controller, MSRT Corporation, Nanded, in his office on 11-10-2021 at 12.00 noon for a hearing.
- b) He shall submit the relevant documents and also written notes of submission.

- c) The Divisional Controller shall conduct a hearing from 11-10-2021 till 25-10-2021, after giving every opportunity of hearing to the petitioner.
- d) Thereafter, he would close the proceedings and deliver a reasoned order on or before 20-11-2021.
- e) If he arrives at the same conclusion as borne out by the impugned order dated 31-01-2020, the said order would then be made effective.
- f) The petitioner would be eligible to assail the said order by taking recourse to a remedy as is permissible in law.
- g) Since some amount has been recovered from the petitioner, prior to this Court granting interim protection on 16-02-2021, the said amount would remain with the Corporation and eventually, if it is concluded that the petitioner is not entitled to the amount which he has received in excess, the same would be adjusted with the amount to be recovered, subject to the legal remedies available to the petitioner.

**(S. G. MEHARE, J.)**

**(RAVINDRA V. GHUGE, J.)**