

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 1175 OF 2021

Maharashtra State Road Transport Corporation, through its Divisional
Controller, MSRTC, Gadchiroli and another Vs. Vandana Swapnil Dhawle

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Shri Prashant Gode, Advocate for petitioners.

CORAM : V.M. DESHPANDE, J.
DATE : 3rd MARCH, 2021.

Respondent-Vandana was working as a Bus Conductor with the Aheri Bus Depot controlled by the petitioners. The petitioners transferred her from Aheri to Bramhpuri vide order dated 10.09.2020. Being aggrieved by the said order she filed a Complaint (ULP) No.22 of 2020 before the Industrial Court, Chandrapur. In the complaint, she made averments about the malafide against her higherups inasmuch as it is stated that when she was discharging her duties as a Conductor on a route Alapalli to Etapalli the bus was checked by Assistant Traffic Inspector and under the garb of bus checking said Assistant Traffic Inspector demanded sexual pleasure from her. Therefore, she immediately lodged a police complaint and on the complaint, the Police Station Officer registered Crime No.39/2020 for the offence punishable under Section 354A of the Indian Penal Code at Etapalli, District Gadchiroli. It is stated in the complaint, as it could be seen from the order which is impugned in this writ petition, that the Divisional

Controller in order to teach a lesson to the respondent issued an order of transfer.

(2) After hearing the learned counsel for the petitioners as well as learned counsel for the respondent the order of transfer which was challenged in the complaint is stayed by the learned Member of the Industrial Court, Chandrapur on 25.09.2020. Thus, it was obligatory on the part of the petitioners to allow the respondent to continue her duty at Aheri Depot in view of the order of transfer being stayed. However, to show employer's arrogance the petitioners did not allow the respondent to join her duty at Aheri.

(3) At this stage, Shri Prashant Gode, learned counsel for the petitioners submits that respondent-Vandana has filed proceedings for non-compliance of order dated 25.09.2020 and the matter is fixed on 10.03.2021.

(4) When the petitioners found that the respondent has initiated proceedings for disobedience of order dated 25.09.2020, without there being any plausible explanation, they filed this writ petition on 18.02.2021 and got circulation on 26.02.2021, which was granted for today. The impugned order dated 25.09.2020 shows that the learned Member of the Industrial Court, Chandrapur considered the case of the petitioners in detail and thereafter found that the respondent/original complainant is

succeeded in showing, at least *prima facie*, that the order of transfer is issued with malafide intention and in colourable exercise of power of employer. Therefore the Industrial Court granted stay to the order.

(5) The petitioners are not a private individual. It is a Corporation. The petitioners/Corporation ought to have shown that it is a model employer. Of course, the petitioners here having every right to defend its action however for that there was no reason for the petitioners to keep mum from 25.09.2020 to 18.02.2021 when this writ petition is filed. During this period it was expected from the petitioners/Corporation to obey and follow the directions given by the Court.

(6) In my view, the petitioners are not moving this writ petition with clean hands. They are moving this writ petition only when they found that they may face the tune of law in not following the order dated 25.09.2020. In that view of the matter, this writ petition cannot be entertained at the behest of such petitioners. The writ petition is dismissed. No order as to costs.

JUDGE

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