

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

WRIT PETITION NO.5471 OF 2022

Laxmikant S/o Jalindhar Mule,	]	
Age : 55 years, Occu. Service,	]	
R/o Samata Nagar, Osmanabad.	]	... <i>Petitioner.</i>

Versus

The Divisional Controller,	]	
Maharashtra State Road Transport Corporation	]	
Near Ambedkar Statue,	]	
Osmanabad District Osmanabad.	]	... <i>Respondent.</i>

...
Mr. Pramod Babanrao Gapat, Advocate for Petitioner
Mr. D. S. Bagul, Advocate for Respondent – Sole
...

CORAM : MANGESH S. PATIL, J.

DATED : 29 JUNE 2022

ORAL ORDER :

- . Heard.
2. Rule. Rule is made returnable forthwith. Learned Advocate Mr. D. S. Bagul waives service on behalf of respondent. At the joint request of the parties, the matter is heard finally at the stage of admission.
3. The petitioner is the employee of the respondent. He is aggrieved and dissatisfied by the dismissal of his complaint preferred by him under

section 28(1) of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (hereinafter referred to “the Act”), complaining about the respondent having indulged in an unfair labour practice under Item 9 and 10 of Schedule IV to that act.

4. An employee of the respondent – corporation who ought to have been superannuated according to his date of birth had continued to work for about more than a month. The petitioner being an employee of the respondent along with couple of other employees were proceeded against in a disciplinary inquiry for the lapse.

5. The petitioner participated in the inquiry and was served with a final show cause notice calling upon to show cause as to why he be not demoted from the post of clerk. Aggrieved by such notice, he filed the complaint.

6. I have heard the learned advocates of both the sides.

7. It is a matter of record that as far as the preliminary issues No. 1 and 2 are concerned, finding of the Industrial Court that the inquiry was conducted in fair manner has been confirmed by this Court in Writ Petition No. 2093 of 2019 by the order dated 5 August 2021. The Industrial Court thereafter concluded the hearing and recorded negative finding about the allegations regarding the respondent having indulged in unfair labour

practices covered by Item No. 3, 9 and 10 of the Schedule IV of the Act.

8. In view of the aforementioned state of affairs, there is no question of going back and examining the aspect of fairness. The respondent is now on the verge of completion of the inquiry and the petitioner has been served with a final show cause notice. Needless to state that even before any decision is taken pursuant to such a notice and the response to be filed by the petitioner one cannot anticipate as to if the proposed punishment would be grossly disproportionate or otherwise. It would be pre-mature to reach such a conclusion.

9. The anxiety being expressed by the learned advocate for the petitioner that he had received several other documents to show/demonstrate the discrimination between the punishment that is already meted out to the other two employees Mr. V. G. Bhosale and Mr. A. T. Gaikwad, can certainly be addressed by keeping open to the petitioner to advert the attention of the disciplinary authority to all such supervening events and even the latter would be obliged to consider all these aspects, but that can happen only if the petitioner responds to the final show cause notice.

10. Going by the allegations in the complaint filed before the Industrial Tribunal, I am afraid, the petitioner has miserably failed to prove that the respondent had indulged in unfair labour practice covered by the

Atom 3, 9 and 10. There is no illegality in the order passed by the Industrial Court in dismissing the complaint.

11. The writ petition is dismissed.

12. However, it is clarified that the petitioner may respond to the final show cause notice, produce whatever documents he intends to produce and the respondent would be obliged to consider it on its own merits.

13. Rule is discharge.

(MANGESH S. PATIL, J.)