

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 15340 OF 2017

Vasant Baburao Patil

...Petitioner

Versus

The Chairman,
Maharashtra State Road Transport
Corporation & Others

...Respondents

.....
Mr. Vivek Dhage h/f. Mr. Ramesh Wakade, Advocate for the
petitioner

Mr. D.S. Bagul, Advocate for respondent No. 3.

.....
[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 16th SEPTEMBER, 2022

ORDER :

1. Challenge in this petition is to the order of punishment, imposed by the respondents on the petitioner, thereby directing recovery of Rs. 67,500/- from the petitioner.

2. Facts in brief are that, the petitioner while working as Assistant Work Superintendent at Pachora Depot was served with a chargesheet. Pursuant to the chargesheet inquiry was conducted and by the impugned order punishment of recovery of Rs. 67,500/- is imposed on the petitioner. Departmental appeal filed by the petitioner is dismissed, so also, second appeal filed

by the petitioner before the Respondent No. 1 is also dismissed. These orders are impugned in the present petition.

3. The learned advocate for the petitioner assailed the impugned orders contending that before conducting departmental inquiry, two preliminary inquiries were held wherein the petitioner was not held responsible. According to him, the petitioner cannot be held liable for the recovery as the petitioner is held responsible for the misconduct, which does not form part of his duty. He further pointed out that though he has replied to the final show cause notice, his reply is not considered, on the contrary it is observed in the impugned punishment order that the petitioner has failed to give any reply. Both the Appellate authorities have not assigned any reason while dismissing the appeal. Hence, he submits that the impugned punishment orders are unsustainable and same may be quashed and set aside.

4. The learned advocate for respondent No. 3 on the other hand supported the impugned orders. He submits that there is sufficient material on record to sustain the punishment awarded to the petitioner and the recovery is rightly directed from the petitioner.

5. I have given due consideration to the rival submissions. Perused the writ petition, grounds taken therein, annexures thereto and the impugned orders.

6. It is not in dispute that the impugned punishment order refers to that the petitioner has failed to submit his reply to the final show cause notice, which is clear from the impugned order Exhibit-K dated 16.10.2011. The endorsement on Page 107 shows that said reply is served on the steno. Fact remains that said reply is not considered, so also, in both the appellate orders there is no discussion on merits, the contentions raised by the petitioner in appeal are not at all considered. No findings on merits of the matter are recorded.

7. In view of ratio in *Kranti Associates Private Limited and Anr. Vs. Masood Ahmed Khan and Others*, [2010] 9 SCC 496, the impugned orders being unreasoned orders cannot be sustained.

8. The learned advocate for the petitioner has placed reliance on the duties of Divisional Stores Officer in division. Clause 1 of said duties reads thus:

"1. The duties of a Divisional Stores Officer are not separately and specifically confined. His duties are of both initiative nature and of supervisory nature. When posted as Divisional Stores Officer particularly he is In-charge of the divisional stores attached to him subject to the instructions of his Divisional Controller, he controls fully the Divisional Stores and its staff, is responsible for availability of spare parts for Divisional Workshops, Tyre Retreading Plant and Depots of Division and is fully accountable for them."

9. This aspect as well as the admissions given by the witnesses during the course of departmental inquiry are not taken into consideration while passing the impugned punishment order against the petitioner. Taking into consideration the above circumstances, this Court is of the opinion that the impugned orders passed against the petitioner are liable to be quashed and set aside and the matter is required to be remanded back to respondent No. 2 for fresh consideration on merits.

10. The impugned order 15.07.2017 passed by Respondent No. 1, and orders dated 06.09.2013 and 16.10.2011, passed by respondent No. 2 and 3 respectively, are quashed and set aside.

11. The matter is remanded back to respondent No. 2 for fresh consideration on merits. The petitioner shall appear before

respondent No. 2 on 03.10.2022. Respondent No. 2 shall decide the matter after giving opportunity of hearing to the petitioner, within a period of eight weeks thereafter.

[NITIN B. SURYAWANSHI, J.]