

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

**REVIEW APPLICATION (CIVIL) NO.308 OF 2022
IN WP/11204/2022**

**ASHOK PRALHADRAO JAWAKE
VERSUS
DIVISIONAL CONTROLLER MAHARASHTRA STATE ROAD
TRANSPORT CORPORATION**

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Mr. Bhagwan V. Gawali, Advocate for the Applicant.

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CORAM : SANDEEP V. MARNE, J.

DATED : 23rd NOVEMBER, 2022.

PER COURT:-

1. The application is filed seeking review of the order dated 10.11.2022.

2. At the outset, it must be observed that there is no averment in the review application to the effect that there is any error apparent on the face of record in the order under review. In my view on this ground alone the review application deserves to be dismissed.

3. Nonetheless, I have heard the learned counsel appearing for applicant. The main ground on which the review is filed is because a finding is recorded in paragraph no.2 of the order under review as under:

“Prima facie, it is incomprehensible as to how the Labour Court could have entertained the complaint of the petitioner against a mere show cause notice and prevented the employer from taking the disciplinary proceedings to its logical end.”

4. The review of the order is sought by contending that in law complaint challenging show cause notice for imposition of penalty in disciplinary proceedings by the Labour Court are held to be maintainable. In support of his contention the learned counsel for applicant has relied upon the judgment of the Apex Court in **Hindustan Lever Ltd. Vs. Ashok Vishnu Kate and Others, (1995) 6 SCC 326**. Firstly, it must be observed that, this judgment was not cited when the order under review was passed. Merely because applicant has come across a judgment, possibly in his favour, subsequently the same cannot be a ground to review the order.

5. True it is that Apex Court has held in **Hindustan Lever Ltd. Vs. Ashok Vishnu Kate and Others** (supra) that complaints filed under Section 28(1) of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 in connection with contemplated discharge or dismissal of the employee can be entertained. However, I have not decided the issue of maintainability of the complaint of petitioner while passing order under review. The aforementioned finding is prima facie one. The same is further clarified by observing that 'However, without expressing any final opinion on this aspect -----'. Thus no finding is recorded in the order under review that the complaint filed by petitioner was not maintainable.

6. The petition has been dismissed after noticing the misconduct alleged against applicant of abusing Traffic Inspector by using filthy language under influence of liquor. This charge

is held to be proved in the domestic enquiry and a show cause notice was issued for imposition of penalty. Considering the proved misconduct against applicant, the Labour Court as well as Industrial Tribunal has held that there is no prima facie case for grant of any interim relief to applicant during the pendency of the complaint. Considering those observations of the Labour Court and the Industrial Court, the petition has been dismissed.

7. In my opinion, there is no error apparent on the face of record in the order under review. The review application is rejected. However, the time of two weeks for filing reply to the show cause notice granted vide order dated 10.11.2022 is extended in the interest of justice by further period of one week.

(SANDEEP V. MARNE)
JUDGE