

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

WRIT PETITION NO. 12975 OF 2022

Balaji Yuvraj Tondare

.. Petitioner

Versus

Divisional Traffic Superintendent
Maharashtra State Road Transport
Corporation

.. Respondent

Shri Vishwanath P. Golewar, Advocate for the Petitioner.

**CORAM : SANDEEP V. MARNE, J.
DATE : 19TH DECEMBER, 2022.**

FINAL ORDER :

. This is a unique case which demonstrates as to how the employer is prevented from passing a punishment order in domestic enquiry against an employee. Petitioner has been subjected to domestic enquiry into the charge of misappropriation of amount and carrying prohibited item (Diesel) in the bus. The charge has been held to be proved and a show cause notice for dismissal was issued on 29.01.2014. Show cause notice was subject matter of challenge in Complaint (ULP) No. 30 of 2014. In that complaint, application at Exhibit U-2 was filed for interim injunction. It appears that the Labour Court had granted *ad-interim* injunction till decision of the application at Exhibit U-2, which prevented the respondent-corporation from passing final order against the petitioner. Application at Exhibit U-2 came to be rejected by the Labour

Court on 13.07.2017. Thus, the Labour Court took three long years in deciding whether interim injunction could have been granted in a complaint challenging a mere show cause notice.

2. Aggrieved by the decision of the Labour Court, petitioner approached Industrial Court by filing Revision ULP No. 222 of 2017 (Renumbered as Revision ULP No. 02 of 2021). In that revision, *ad-interim* injunction was granted in favour of the petitioner, the Industrial Court took five long years to decide that revision application, which has been ultimately rejected on 01.12.2022.

3. In the aforesaid manner, in proceedings challenging a mere show cause notice for imposition of penalty on an employee, the issue of grant of interim injunction remained pending before the Labour Court and the Industrial Court for the last eight long years from 2014 to 2022. Resultantly, the employer has been prevented from taking final decision in the matter.

4. The petitioner has been found guilty in the domestic enquiry. The employer must be permitted to take the domestic enquiry to its logical end by imposing either appropriate penalty or by exonerating the petitioner. The proceedings cannot be kept pending by raising a challenge to a mere show cause notice. The Labour Court and Industrial Court have taken period of eight long years together in deciding whether the petitioner is entitled to interim injunction till final decision in Complaint ULP No. 30

of 2014. Now the prayer of the petitioner before me is injunction restraining the respondent-corporation from inflicting the penalty on the petitioner till the Labour Court decides Complaint ULP No. 30 of 2014. It is unknown as to how much more time the Labour Court will take for finally adjudicating Complaint ULP No. 30 of 2014 merely challenging a show cause notice. This in my view is a systematic method of dragging enquiry proceedings in respect of which the petitioner has been held guilty.

5. In this view of the matter, the employer cannot be prevented any further from passing a final order in the enquiry proceedings. Labour Court and the Industrial Court have rightly rejected applications for interim injunctions albeit after substantial delay. The only possible error committed by the Labour Court and Industrial Court is keeping such applications pending for number of years thereby preventing the employer from taking final decision in the enquiry proceedings.

6. Resultantly, there is no merit in the present petition. It is dismissed without any orders as to costs.

[SANDEEP V. MARNE, J.]