

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH : NAGPUR

WRIT PETITION NO.869 OF 2008

Charandas s/o Sambhaji Bobde,
aged about 58 years,
r/o Dhanalaxmi Nagar,
Plot No.6, Behind Shradha Nagar,
Wadgaon Gram Panchayat,
Yavatmal.

... Petitioner

- Versus -

1) Maharashtra State Road Transport
Corporation, through its
Vice Chairman and Managing
Director, Wahatuk Bhawan,
Dr. Anand Nayar Marg,
Bhayakhala, Mumbai.

2) Maharashtra State Road
Transport Corporation, through
its Regional Manager,
Nagpur.

... Respondents

Shri C.V. Jagdale, Advocate for Petitioner.

Shri V.H. Kedar, Advocate and Ms. B.V. Reddy, Advocate for
Respondents.

CORAM : NITIN JAMDAR AND
ANIL L. PANSARE, JJ.

DATE : 16 MARCH 2022

P.C. :

The Petitioner has challenged the order passed by the Respondent No.2 Maharashtra State Road Transport Corporation dated 11 September 2007 recovering an amount of Rs.55,642/- from the Petitioner.

2) Shri Jagdale, learned Counsel for the Petitioner, contends that though charge-sheet was issued to the Petitioner on 22 February 2006, till the date of retirement of the Petitioner on 31 January 2007, no action was taken against the Petitioner and the impugned action was taken on 12 April 2007 after the Petitioner had superannuated from service. The learned Counsel has asserted that Discipline and Appeal Procedure, as adopted by the Respondent Corporation does not permit continuation of enquiry against employee after retirement and imposition of penalty.

3) On the last occasion, the petition was adjourned at the request of learned Counsel for the Respondents to examine the legal position and show us either any judicial pronouncement upholding the right of the Respondent Corporation to impose penalty after retirement or any Rules framed or adopted by the Respondent Corporation and applicable to the Petitioner, which

permit such course of action. However, neither any judicial pronouncement nor any Rule, Regulation or Procedure is placed by the Respondent No.2 to counter the assertion of the Petitioner. We cannot keep on adjourning the matter also considering the small quantum of the amount involved.

4) Since the assertion of the Petitioner about lack of power on the part of the Respondent No.2 has gone unanswered, we have no option but to accept this contention and quash and set aside the impugned order.

5) Accordingly, the impugned order dated 11 September 2007 is quashed and set aside. The Respondents will refund the amount of Rs.55,642/- to the Petitioner within a period of four weeks from today.

6) Rule is made absolute in the above terms. No costs.

(ANIL L. PANSARE, J.)

(NITIN JAMDAR, J.)

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