

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 1968 OF 2019

Divisional Controller MSRTC __ Vs. __ Narendra Ambadas Lawane

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr.R.S.Charpe Advocate for petitioner
Mr. A.J.Pathak, Advocate for respondent.

CORAM : AVINASH G. GHAROTE, J.
DATE : 11/10/2022

1] Heard Mr. Charpe, learned counsel for the petitioner and Mr. Pathak, learned counsel for respondent.

2] Since the Respondent-employee was charge-sheeted for an enquiry and the enquiry report dated 18.5.2012 found him guilty of misconduct and a final show cause notice was issued on 19.11.2012 seeking to impose the penalty of proposed termination, the same was challenged before the learned Labour Court by way of ULP Complaint No. 112/2012. The learned Labour Court by its judgment dated 28.5.2015 set aside the show cause notice and directed the petitioner to impose minor punishment as per the Discipline and Appeal Procedure (pg. 35). This judgment of the learned Labour Court was not challenged by the petitioner-employer, as a result of which it attained finality.

3] Thereafter by order dated 31.3.2016, three increments of the employee were permanently barred (pg 36) and the period of suspension from 22.5.2012 to 21.6.2012 was considered as a period on leave. This imposition of penalty was challenged by the employee-respondent before the learned Industrial Court, on the ground that such imposition was not a minor punishment. The learned Industrial Court by the impugned order dated 26.9.2017 (pg 53) has allowed the complaint and has set aside the impugned punishment order dated 31.3.2016.

4] Mr. Charpe, learned counsel for the petitioner submits that the punishment rendered was fair and proper, considering the nature of the misconduct and the impugned order is therefore required to be quashed and set aside.

5] Mr. Pathak, learned counsel for the respondent opposes the same contending that it is not a minor punishment, but a major punishment, for which he places reliance upon clause 7 of the Discipline and Appeal Procedure.

6] The copy of the Discipline and Appeal Procedure as provided to this Court by the learned counsel for the respondent/employee is not disputed by the learned counsel for the petitioner. A perusal of

Clause 7 thereof would indicate that the stoppage/withholding of increment for a period not exceeding three annual increments is a major punishment. Considering that the judgment of the learned Labour Court dated 28.5.2015 has attained finality and directs imposition of minor punishment, it was not permissible for the petitioner-employer to have acted in a manner contrary to the aforesaid judgment of the learned Labour Court, considering which, I do not see any reason to disagree with the judgment of the learned Industrial Court. The petition is therefore without any merits and the same is dismissed. No costs.

JUDGE

Rvjalit