



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

WRIT PETITION NO. 13694 OF 2023

The Divisional Controller Maharashtra
State Road Transport Corporation
Nanded .. Petitioner

Versus

Kamlakar Balwantrao Pande .. Respondent

Shri Anand D. Wange, Advocate for the Petitioner.

CORAM : SHAILESH P. BRAHME, J.
DATE : 08TH DECEMBER, 2023.

FINAL ORDER :

. Heard the learned counsel for the petitioner. The petitioner is challenging judgment and order dated 22.11.2022 passed by the learned Member, Industrial Court, Jalna in Appeal PGA No. 02 of 2022 confirming the judgment and order dated 30.12.2019 passed in PGA No. 51 of 2017 by the learned Labour Court, Nanded. By the impugned judgment and orders, the petitioner is directed to pay gratuity of Rs. 38,942/- with interest.

2. The respondent was employee of the petitioner. A disciplinary action was conducted against him. He was terminated by order dated 17.01.1997 for finding him guilty for the allegations of misappropriation. He was reappointed on 01.04.1997. He was superannuated on 30.06.1997. As the

amount of gratuity was forfeited, being aggrieved he approached the Labour Court.

3. The learned counsel for the petitioner submits that the respondent is not entitled to gratuity. He had failed to issue tickets to fourteen passengers. The charges of misappropriation were proved, which amounts to moral turpitude. He was dismissed from service. Therefore, case is clearly covered by Section 4(6) of the Gratuity Act. The learned counsel submits that both the Courts have committed error of jurisdiction in overlooking the plea of limitation. He attained age of superannuation on 30.06.1997, however, the claim was filed on 27.06.2017 without there being any explanation. The respondent is not entitled to amount of gratuity.

4. I have gone through the judgments passed by both the Courts below. By reasoned judgments the decisions are rendered in favour of the respondent. The gratuity can be forfeited under certain circumstances as stipulated in Section 4(6) of the Gratuity Act. Both the Courts below have recorded concurrent findings that the petitioner failed to make out case to forfeit the gratuity. I do not find any perversity or patent illegality in the findings recorded.

5. There is no material placed on record by the petitioner that the respondent was guilty or responsible for damages or loss or destruction of the property of the petitioner. It is not the case of

the petitioner that his conduct was ever riotous or disorderly or involving violence.

6. So far as moral turpitude is concerned, the respondent was held guilty for misappropriation. I am of the view that the charges of misappropriation which are proved against the respondent are not sufficient to hold him guilty for moral turpitude. Pertinently, he is reappointed on 31.05.1997. Had he been guilty of moral turpitude, the petitioner would not have been reappointed.

7. So far as plea of limitation is concerned, this specific issue has not been framed, but the Labour Court has considered it. The judgments are also referred in para Nos. 9 to 13. In paragraph No. 14, there is due consideration by the Labour Court for the plea of limitation. I do not find any perversity or patent illegality.

8. It is made clear that the findings recorded in this matter are restricted to the facts and circumstances prevailing in the matter and cannot be made applicable to other cases.

9. For the reasons stated above, the petition is devoid of any merits. Hence it is dismissed.

[SHAILESH P. BRAHME, J.]