

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 9049 OF 2022

SANTOSH
SUBHASH
KULKARNI

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Date: 2023.07.19
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Sou. Rubina Rafiq Mulla

...Petitioner

Versus

Divisional Controller MSRTC and anr.

...Respondents

Mr. Suhas Inamdar, for the Petitioner.

Mr. Y. P. Deshmukh, a/w Vaidehi Pradeep and Aditi Athawale,
for Respondent Nos.1 and 2.

CORAM: N. J. JAMADAR, J.

DATED : 17th JULY, 2023

PC:-

1. Heard the learned Counsel for the parties.
2. The petitioner employee takes exception to a judgment and order dated 8th November, 2021 passed by the the learned Member, Industrial Court, Solapur, in Revision (ULP) No.30 of 2018 whereby the learned Member allowed the revision and set aside the order passed by the learned Presiding Officer, Labour Court, Solapur, on preliminary issue in Complaint (ULP) No.29 of 2014 that findings of the Enquiry Officer were not legal, fair and proper. In the process, the learned Member, Industrial Court, returned a finding that the findings of the Enquiry Officer were just and proper.

3. The principal ground of challenge in the petition is that the petitioner was not heard when the revision application came to be decided.

4. Today, an affidavit-in-rejoinder is tendered on behalf of the petitioner. It is, *inter alia*, affirmed that the learned Advocate for the petitioner, who represented the petitioner before the Revisional Court, had passed away before the matter could be heard by the learned Member, Industrial Court.

5. In view of the aforesaid state of affairs, Mr. Deshmukh, the learned Counsel for respondent Nos.1 and 2, fairly submits that the petitioner deserves a fair opportunity of hearing before the Revisional Court.

6. The petition thus stands allowed.

7. The impugned order passed by the learned Member, Industrial Court, in Revision (ULP) No.30 of 2018 stands quashed and set aside.

8. Revision (ULP) No.30 of 2018 is restored to the file of the learned Member, Industrial Court, Solapur.

9. The learned Member is requested to decide the Revision afresh after providing an effective opportunity of hearing to the parties.

10. The parties shall appear before the Revisional Court on 7th August, 2023.

11. No notice be issued to the parties.

[N. J. JAMADAR, J.]