

Prajakta Vartak

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.8685 OF 2016**

Maharashtra State Road Transport Corporation. ..Petitioner

Vs.

Shri.Shankar Yashwant Pawar

..Respondent

Mr. G.S. Hegde i/b. Ms. P.M. Bhansali for the Petitioner.

Mr. Balwant Salunkhe i/b. Mr. S.D. Pandey for Respondent

CORAM : G.S. KULKARNI, J.

DATE : JANUARY 03, 2023

P.C.:

1. On perusal of the earlier order dated 4 March 2020, it appears that Mr. Balwant Salunkhe i/b. Mr. S. D. Pandey had represented the respondent on the earlier occasion when the petition was called out on 4 March 2020.

2. Accordingly, the petition is **kept back** to be called out **at 2.30 p.m.** The name of Mr.Balwant Salunkhe and Mr. S. D. Pandey be notified on the electronic display. In the event the respondent is not represented, there would be no alternative but to hear Mr.Hegde, learned Counsel for the petitioner, and pass appropriate orders.

Later on

3. Heard Mr. Hegde, learned counsel for the petitioner and Mr. Salunkhe, learned counsel for the respondent.

4. Challenge in this petition is to the judgment and order dated 21 November, 2013 passed by the Member, Industrial Court, Maharashtra, Satara whereby Complaint (ULP) No.47 of 2008, as filed by respondent came to be partly allowed in terms of the following order:-

“ **ORDER**

1. The complaint is partly allowed.
2. It is declared that the Respondents are indulged in unfair labour practice as contemplated under Item-9 of Sch. IV of the MRTU & PULP Act, 1971.
3. The Respondents shall cease and desist from involving in such unfair labour practice.
4. The complaint stands dismissed as regards the indulgence of the Respondents in unfair labour practice as contemplated under Item-10 of Sch. IV of the MRTU & PULP Act, 1971.
5. The complainant will be entitled for modification into the order passed by the first appellate authority dated 14.10.2003, confirmed by the second appellate authority which is set aside and instead of that the Respondents are given liberty to impose any of the punishment as contemplated in Clauses (b), (c) & (e) of Clause-7 of D & A Procedure (gairvartanukichi krutye, page no.10) on the Complainant.
6. The Complainant will be entitled for continuity in service in addition to the relief of his reappointment as already granted to him.
7. The alternative punishment as stated above in Clause-(5) shall be imposed on the Complainant after giving him opportunity of hearing before imposing the punishment.
8. Accordingly the complaint is disposed of.”

5. Learned counsel for the respondent has stated that the respondent has already attained the age of superannuation on 31 May, 2019. On such backdrop, taking an overall view of the matter, a Co-ordinate Bench of this Court on 04 March, 2020 had passed the following order so that

the dispute between the parties can be put to an end:-

“ The matter was heard at some length on the last date and was stood over to enable learned Counsel for the Petitioner to take instructions, if the petition could be settled by imposing another punishment, that is to say, any punishment other than dismissal ordered in the present case by the Disciplinary Authority of the Petitioner. Mr. Hegde, learned Counsel appearing for the Petitioner, on instructions states that his client is agreeable to levy instead a punishment of stoppage of three increments. Learned Counsel submits that since the Respondent has already stood superannuated during the pendency of the present petition, his client is agreeable to pay back-wages and retirement benefits to the Respondent on the basis of the proposed punishment of stoppage of three increments. Learned Counsel for the Respondent seeks time to take instructions on this proposal. Stand over to 18 March 2020.”

6. Today learned counsel for the respondent, on instructions, states that the respondent is ready to accept the said proposal which was offered by the petitioner. If that be so, in my opinion, further adjudication of the petition is not called for. The petition is accordingly disposed of accepting the statement as made on behalf of the petitioner and as recorded in the order dated 04 March, 2020 passed by this Court, that the petitioner would now be agreeable to instead impose a punishment of stoppage of three increments, and that all the benefits on the basis of such stoppage of three increments shall be granted to the respondent, which would accrue to him, till the date of his superannuation.

7. The petition is accordingly disposed of in terms of the statement

as made on behalf of the petitioner. Let the benefits be calculated as expeditiously as possible and preferably within a period of two months from today. There shall not be any further extension.

8. Disposed of in the above terms. No costs.

[G.S. KULKARNI, J.]