

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10245 OF 2023

Deepak Babuso Hajare

.. Petitioner

Versus

Divisional Traffic Officer,
Maharashtra State Transport Corporation,
Sindhudurg Division, Kankavali

.. Respondent

-
- Mr. Manoj Patil for Petitioner
 - Mr. Nilesh V. Bhutekar a/w Mr. Aniket Nangare for Respondent
-

CORAM : MILIND N. JADHAV, J.

DATE : NOVEMBER 08, 2023

P.C.:

1. Heard Mr. Patil, learned Advocate for Petitioner and Mr. Bhutekar, learned Advocate for Respondent.

2. By way of present Writ Petition, Petitioner has approached this Court under Article 227 of the Constitution of India in its writ jurisdiction challenging the impugned Judgment and Order dated 18.07.2023 passed by the learned Member - Industrial Court No. 02, Kolhapur in Revision Application [ULP] No. 54 of 2022 and also challenges the impugned order dated 02.08.2022 passed by the learned Judge - Labour Court, Ratnagiri below Exhibit U-2 in Complaint [ULP] No. 19 of 2021.

3. Petitioner is in service with Respondent Corporation serving as Driver-cum-Conductor since 2018. Petitioner was assigned duty of

Conductor on the route of Malvan to Tulajapur. The bus was checked by the flying squad near Radhanagari Dam. Petitioner issued ticket No. 007140 by using E.T.I. machine and wrote on it 7140. Respondent alleged that the said ticket was found with the head of a group of 9 passengers namely one Mr. Vaibhav Deshmukh. The squad inspector enquired about the ticket with the passengers. During enquiry, passengers informed that they paid the amount of Rs. 200/- each to the Petitioner and Petitioner had issued them ticket at Radhanagari Dam i.e. from Bambar to Kolhapur. The squad team issued fresh tickets of Rs. 1,035/- to the passengers. Respondent alleges that if the bus was not checked, then Respondent Corporation would have sustained a financial loss of Rs. 1800/-.

4. Hence, on 28.02.2021 Respondent served charge sheet on Petitioner, to which he replied. Respondent conducted the enquiry. Based on enquiry report, Petitioner was served with Show Cause Notice dated 08.12.2021 for dismissal by Respondent Corporation. Said Dismissal Show Cause Notice is the cause for initiation of proceedings.

5. Being aggrieved by the Dismissal Show Cause Notice dated 08/12/2021, Petitioner filed Complaint [ULP] No. 19 of 2022 before the learned Labour Court at Ratnagiri under the provisions of Section 28(1) r/w Item I [a, b, d, f & g] of Schedule IV of the MRTU & PULP

Act, 1971. Learned Judge - Labour Court granted ad-interim relief in favour of Petitioner and directed Respondent not to terminate the services of Petitioner with Respondent Corporation. By order dated 02.08.2022, learned Judge of Labour Court at Ratnagiri rejected Application below Exhibit U-2.

6. Petitioner filed Revision [ULP] No. 54 of 2022 before the learned Industrial Court - Kolhapur and challenged order of the Labour Court dated 02.08.2022 passed below Exh. U-2. By order dated 22.08.2022, learned Industrial Court granted ad-interim relief and directed Respondent not to terminate the services of the Petitioner until the next date, which stands extended thereafter from time to time.

7. After hearing the parties, the learned Member of Industrial Court No. 2, Kolhapur by Judgment and Order dated 18.07.2023 rejected the Revision [ULP] No. 54 of 2022. While dismissing the Revision, the learned Member of Industrial Court however continued the ad-interim relief till 17.08.2023.

8. Petitioner by way of the present Writ Petition has challenged the order of the learned Industrial Court - Kolhapur and also the order of the learned Labour Court - Ratnagiri. This Court has since continued the ad-interim relief.

9. Mr. Patil, learned Advocate for Petitioner has invited my attention towards the grounds pleaded and formulated for consideration in the memo of the Writ Petition and alternatively submitted that the main Complaint [ULP] No. 19 of 2022 pending before the learned Labour Court at Ratnagiri be decided and disposed off within a time bound programme and till then the ad-interim relief granted earlier be continued.

10. *PER CONTRA*, Mr. Bhutekar, learned Advocate for Respondent supported the orders passed by the learned Courts below and has vehemently prayed for dismissal of the Writ Petition.

11. I have perused the record of the case. Though I would not like to opine anything on merits, the facts of the case as seen before me for which the Petitioner was issued the impugned show cause notice are *prima facie* gross and require effective adjudication after considering evidence. I have impressed upon both the learned Advocates that no purpose would be served in passing any interim order against the impugned order dated 18.07.2023 passed by the learned Industrial Court, rather effective justice would be done if the learned Labour Court is directed to adjudicate the pending Complaint [ULP] No. 19 of 2022 pending before it at Ratnagiri within a time bound programme.

12. Considering the nature of controversy, the learned Judge - Labour Court at Ratnagiri is therefore directed to decide and dispose of Complaint [ULP] No. 19 of 2022 on its own merits and in accordance with law within a period of 3 months from today. It is clarified that this Court has not expressed any opinion on the merits of the case. The learned Judge - Labour Court, Ratnagiri shall independently assess and adjudicate the pending Complaint [ULP] No. 19 of 2022 without being influenced by any of the orders challenged in the present Writ Petition. In view of this, both orders of the Industrial Court and Labour Court shall stand quashed and set aside and shall not influence the decision of the Labour Court while determining Complaint (ULP) No. 19 of 2022 finally.

13. The interim order of *status quo* - not to terminate Petitioner's service be continued till the final disposal of Complaint [ULP] No. 19 of 2022 and for a further period of two weeks thereafter if the Complaint is dismissed, to enable the Petitioner to take recourse to law.

14. All contentions of both parties are expressly kept open.

15. With the above direction, Writ Petition is disposed.