

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

Writ Petition (WP) No. 1072 of 2018

Smt. Alka Kishorrao Thakre

Versus

Maharashtra State road Transport Corporation, Nagpur and another

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri B.M.Khan, Advocate for the petitioner.

Shri V.G. Wankhede, Advocate for the respondent no.1.

CORAM : ANIL S. KILOR, J.

DATED : 2nd AUGUST, 2023.

Dismissal of the petitioner after holding an inquiry on the ground that the petitioner was continuously absent from 10th August, 2000 to 23rd August, 2001 unauthorisedly, was upheld by the learned Labour Court vide judgment and order dated 18th November, 2008 as well as by the learned Industrial Court vide judgment and order dated 5th April, 2017. Hence this petition.

2. Shri Khan, learned counsel for the petitioner submits that though the applications were submitted for leave on medical ground. Both the Courts below have recorded the findings that the petitioner remained absent and did not attend the work without making any leave application. He submits that said findings is perverse as every time the leave

application was submitted by the petitioner along with medical certificate.

3. It is argued that her health condition was so which could not permit her to attend the duties and the Civil Surgeon's certificate supports her case. He, therefore, submits that both the Courts below have committed error in upholding the dismissal of the petitioner.

4. On perusal of the record and the impugned judgments and orders though it is evident that leave applications were made on medical ground and medical certificate were submitted along with the application, no such leave application was sanctioned by the respondent Corporation. In absence of any such sanction, I do not find any perversity in findings recorded by both the Courts below, that the absence of the petitioner was unauthorised.

5. Moreover, the petitioner did not attend the inquiry proceeding and it was proceeded ex parte and the charges level against the petitioner were proved in the said inquiry.

6. Nothing has been pointed out how the findings recorded by the inquiry officer are perverse.

7. Moreover, the certificate issued by Civil Surgeon dated 5th November, 2001 says that the

petitioner was suffering from Mild Hypertension with Br. Astham with Dust Alergic with G.D. The certificate further says that she requires to take regular treatment and check-up.

8. Thus, from the medical certificate it is evident that the Doctor did not opine that she was not fit to attend the duties. The ailment mentioned in the certificate did not support the case of the petitioner that her health condition was so which did not permit her to attend the duties.

9. It is thus clear from record that from 10th August, 2000 to 23rd August, 2001 without obtaining sanction, the petitioner was absent from duties and numerous difficulties the Corporation faced due to her absence in administration are mentioned in the charge-sheet by the respondent Corporation.

10. In the circumstances, considering the findings recorded by both the Courts below which are based upon the evidence available on record, I do not find any perversity committed by both the Courts below. Accordingly, the writ petition is dismissed.

[ANIL S. KILOR, J.]

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