



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

Writ Petition (WP) No. 7024 of 2022

Maharashtra State Road Transport Corporation through its Divisional
Controller, Divisional Office, Arni Road, Yeotmal

Versus

Nasirkhan S/o Noorkhan

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

Court's or Judge's Order

Shri R.S.Charpe, Advocate for the petitioner.

Shri C.V.Jagdale, Advocate for the respondent.

CORAM : ANIL S. KILOR, J.

DATED : 16th OCTOBER, 2023.

Heard.

2. The impugned judgment and order dated 18th February, 2021 passed by the learned Industrial Court in Revision (ULP) No. 43 of 2019 arising out of the judgment and order dated 27th February, 2019 passed by the learned Labour Court, Yavatmal in Complaint (ULP) No. 48 of 2016, thereby dismissing the revision filed at the instance of the petitioner, is under challenge in this writ petition.

3. The respondent was working as driver since from 1990 and he was terminated on 30th June, 2016 on

the ground that he was declared medically unfit due to paralytic attack on 16th September, 2013. Accordingly, he approached to the learned Labour Court by filing complaint ULP No. 48 of 2016.

4. The learned Labour Court, Yavatmal while entertaining the application filed under Section 30(2) of Maharashtra Recognition of Trade Union and Prevention of Unfair Labour Practices Act, 1971 (in short hereinafter referred as MRTU and PULP Act, 1971) for interim relief, partly allowed the said application and directed the petitioner to temporarily reinstate the respondent on any suitable post during the pendency of complaint and if no suitable post is available, keep the respondent on a supernumerary post until a suitable post or he attains the age of superannuation.

5. The said interim order dated 20th July, 2017 had attained finality, as no challenge was raised to the said order.

6. The record shows that on 3rd August, 2017 a letter was issued by the petitioner to the respondent giving him alternate appointment for the post of cleaner. However, while doing so certain condition was imposed namely, medical examination and filing of affidavit in a format on a stamp paper of Rs.100.

7. Thereafter another letter dated 27th September, 2018 was issued appointing him on the post of peon.

8. The learned Labour Court after considering the provisions of the Person with Disabilities Act, 1995 allowed the complaint vide order dated 27th February, 2019 and directed the petitioner to pay full back wages from 30th June, 2016 till 22nd November, 2018.

9. The said order was the subject matter of challenge before the learned Industrial Court, Yavatmal, which was upheld in revision vide order dated 18th February, 2021.

10. I have heard learned counsel for the respective parties.

11. The learned counsel for the petitioner submits that as the respondent offered an alternate post vide letter dated 3rd August, 2017 and as he did not join the said post and requested for the issuance of the order for the post of peon, which was issued subsequently on 27th September, 2018, the respondent is not entitled for any backwages from 3rd August, 2017 to 27th September, 2018.

12. I do not find any favour with said argument for the reason that despite the specific order by the

learned Labour Court dated 20th July, 2017, to temporarily reinstate it was not complied with.

13. It is pertinent to note here that in the said order, there was a specific direction to temporarily reinstate the respondent on any suitable post during the pendency of complaint and if no suitable post is available, keep the respondent on a supernumerary post until a suitable post or he attains the age of superannuation.

14. Despite the same, the petitioner did not allow him to join the duties but asked him to appear before the Medical Board and submit the affidavit in format.

15. It is evident that the purpose and intention of the learned Labour Court while passing the order dated 20th July, 2017, was to comply the provisions of the Person with Disabilities Act, 1995. However, to by pass the same, the petitioner had asked for certain compliance and did not allow the respondent to join the duties.

16. In that view of the matter, I do not find any error committed by the learned Labour Court as well as learned Industrial Court in granting the continuity of service with full back wages from 30th June, 2016 till

22nd November, 2018. Accordingly, the writ petition is dismissed.

[ANIL S. KILOR, J.]