



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
Writ Petition No.4173 of 2019**

**Maharashtra State Road Transport Corporation, through its Divisional Controller,
Nagpur Vs. Ishwar s/o Marotrao Balpande**

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

Court's or Judge's Order

Correction carried
out as per Court's
order dt.
04.04.2023

Shri V.H. Kedar, Advocate for the Petitioner
Shri C.V. Jagdale, Advocate for the respondent-sole

**CORAM : ANIL S. KILOR, J.
DATED : 10.08.2023**

1. Heard.
2. In this petition, a challenge is raised to the judgment and order passed by the Industrial Court in Complaint ULP No.307 of 2015 dated 17.08.2018, revising the pay-scale of the respondent-sole.
3. The respondent is working as 'Conductor' in the petitioner Corporation. The respondent filed a Complaint ULP No.422 of 2006 for getting benefits of time scale of pay after completion of 180 days of continuous service.
4. The said Complaint was allowed by the learned Industrial Court vide judgment and order 03.10.2008, directing the petitioner/Corporation to give all the benefits of regular time scale of pay to the respondent-complainant upon completion of 180 days of continuous service with all consequential benefits.
5. Accordingly, the petitioner, vide order dated 15.03.2010 granted all the benefits to the respondent and refixed the salary of the complainant.

6. The said order was affirmed by the High Court and later-on by the Hon'ble Supreme Court of India.

7. Thereafter, the petitioner all of a sudden revised the pay-scale of the complainant vide order No.8530 dated 10.10.2015.

8. The respondent feeling aggrieved by the same, filed the Complaint (ULP) No. No.307 of 2015, which was opposed by the petitioner on the ground that, subsequent to the judgment and order of the Industrial Court in favour of the respondent dated 03.10.2008 it was held by the Hon'ble Supreme Court of India in the case of *M.S.R.T. Corpn. v. Premlal*¹ that, notwithstanding cancellation of clause 49 of 1956 settlement, the workmen therein would be entitled to all benefits admissible to a regular employee working in the Corporation on time scale of pay provided they satisfy the eligibility criteria of having worked for aggregate service of 180 days and subject to their satisfying all the conditions prescribed for their entitlement in terms of the above Resolution No.8856 read with clause (19) of 1985 settlement, the re-fixation was done.

9. It is submitted that re-fixation is on the line of the directions issued by the Supreme Court of India and therefore, the petitioner-Corporation has not committed any illegality in re-fixing the pay-scale of the respondent/complainant.

10. The learned Industrial Court has rejected the said submission of the petitioner by holding that the order of revision of pay-scale was issued in violation of the principles of natural

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justice, without issuing any show cause notice and calling explanation from the respondent and also after recording that in the impugned order of revision of pay-scale, there is no reference to any of the terms and conditions mentioned in the settlement of 1956/resolution No.8856 or settlement of 1985 and accordingly, allowed the complaint and set aside the order dated 10.10.2015 regarding pay-scale of the complainant.

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

12. The learned counsel for the petitioner has tried to canvass before this Court that, the order dated 10.10.2015 was issued keeping in view the law laid down by the Supreme Court of India in the case of *M.S.R.T. Corpn. v. Premlal* (supra).

13. It is submitted that after the said judgment, the whole exercise was undertaken by the petitioner to determine the date on which the individual employee has completed 180 days and has also examined about the satisfaction of all the conditions prescribed and also the entitlement in terms of the Resolution No.8856 read with clause (19) of 1985 Settlement. He, therefore, submits that the learned Industrial Court committed error in setting aside the said order of revision of pay fixation.

14. He has further relied upon the judgment of the Co-ordinate Bench of this Court passed in Writ Petition No.3274 of 2013 dated 23.06.2016 (*Maharashtra State Road Transport Corporation through its Divisional Controller Vs. Mubin Ahemad Sheikh Hussain and anr.*). It is submitted that the

similar directions were issued in the case of *M.S.R.T. Corpn. v. Premlal* (supra).

15. He has also pointed out the judgment of the Division Bench of this Court passed in Letter Patent Appeal No.338 of 2012 dated 21.08.2012 (*Prakash Namdeorao Dhabale & Ors. V. M.S.R.T.C.*), wherein the judgment in the case of *M.S.R.T. Corpn. v. Premlal* (supra) has been relied upon. He therefore, submits that the present petition needs to be allowed by quashing and setting aside the impugned judgment and order passed by the Industrial Court.

16. On the other hand, the learned counsel for the respondent/complainant points out that after the learned Industrial Court allowed the Complaint (ULP) No.422 of 2006, the order was complied with and the said order was confirmed up to the Hon'ble Supreme Court of India and as such the petitioner cannot make revision of pay-scale contrary to the said judgment and the order passed by the Industrial Court.

17. The learned counsel for the respondent has drawn attention of this Court to the order dated 10.10.2015, revising the pay-scale of the respondent and submits that there is no mention of any reason, particularly, there is no reference of the judgment of *M.S.R.T. Corpn. v. Premlal* (supra) for revision of pay-scale. He therefore, submits that the revision of pay-scale is contrary to law and it was rightly quashed and set aside by the Industrial Court.

18. He has further drawn attention to the order of the Co-ordinate Bench of this Court in Writ Petition No.3274 of 2013

(supra), wherein it was observed that in the case where the Corporation has issued any earlier order to the concerned complainants, the same shall bind the Corporation and it shall act accordingly. He therefore, submits that no illegality has been committed by the learned Industrial Court and accordingly he prays for dismissal of the present writ petition.

19. In the light of the rival contentions of the parties, I have perused the record and the impugned judgment and order.

20. In the matter at hand, there is no dispute that earlier the respondent/complainant had approached to the Industrial Court by filing the Complaint (ULP) No.422 of 2006 for grant of benefits of time scale of pay after completion of 180 days of continuous service. The said complaint was allowed by the Industrial Court vide order dated 03.10.2008, directing the present petitioner to give all the benefits of regular time scale of pay to the respondent upon completion of 180 days of continuous service with all consequential benefits.

21. It is also not disputed that the said order and judgment was complied with by the petitioner by granting all the benefits to the respondent vide order dated 15.03.2010.

22. However, without issuing any show cause notice or without hearing the respondent, order dated 10.10.2015, refixing the salary of the respondent, was issued.

23. It is pertinent to note here that the order dated 10.10.2015 does not refer to the judgment in the case of *M.S.R.T. Corpn. v. Premlal* (supra) for revision of pay-scale. In the order dated

10.10.2015 no reasons are given for re-fixation of pay-scale of the respondent. Even there is no mention in the said order about any non-compliance of terms and conditions by the respondent as per the Settlement of 1956/Resolution 8856 or Settlement 1985.

24. It is also not in dispute that the judgment and order dated 03.10.2008 passed by the Industrial Court in Complaint (ULP) No.422 of 2006 has been confirmed by the Hon'ble Apex Court.

25. Thus, the said judgment and order of the Industrial Court has attained finality and therefore, it is not permissible for the Corporation to take away any benefits granted to the respondent/complainant in pursuance to the said judgment and order dated 03.10.2008.

26. Thus, in contravention of the said judgment and order, issuance of order dated 10.10.2015, refixing the pay-scale of the respondent, is illegal and bad in law.

27. In the circumstances, I do not find any error committed by the learned Industrial Court in allowing the Complaint ULP No.307 of 2015 filed by the respondent by order dated 17.08.2018. In such circumstances, no interference is required in the present petition. Accordingly the writ petition is **dismissed**.

[ANIL S. KILOR, J.]