

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

Writ Petition No.4299 of 2019

Maharashtra State Road Transport Corporation, Through Its Divisional
Controller, Nagpur

Vs

Subhash S/O Narayanrao Wanjari

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

Court's or Judge's Order

Shri V.H. Kedar, Advocate for the Petitioner

Shri S.A. Nerkar, 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.210 of 2015 dated 03.11.2018, revising the pay-scale of the respondent-sole.
3. The respondent is working as 'Estt. Supervisor' in the petitioner Corporation. The respondent filed a Complaint ULP No.204 of 2009 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 12.11.2010, 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 16.12.2010 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 by order dated 20.07.2015.

8. The respondent feeling aggrieved by the same, filed the Complaint (ULP) No. No.210 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 12.11.2010 it was held by the Hon'ble Supreme Court of India in the case of *M.S.R.T. Corpn. v. Premalal*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

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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 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 20.07.2015 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 20.07.2015 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.204 of 2008, 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 20.07.2015, 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.204 of 2008 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 12.11.2010, 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 16.12.2010.

22. However, without issuing any show cause notice or without hearing the respondent, order dated 20.07.2015, re-fixing the salary of the respondent, was issued.

23. It is pertinent to note here that the order dated 20.07.2015 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 20.07.2015 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 12.11.2010 passed by the Industrial Court in Complaint (ULP) No.204 of 2008 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 12.11.2010.

26. Thus, in contravention of the said judgment and order, issuance of order dated 20.07.2015, re-fixing 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.210 of 2015 filed by the respondent by order dated 03.11.2018. In such circumstances, no interference is required in the present petition. Accordingly the writ petition is **dismissed**.

[ANIL S. KILOR, J.]