

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

WRIT PETITION NO.4624/2021

Mohansingh s/o Ganpatsingh Thakur

...Versus...

Divisional Controller, Maharashtra State Road Transport Corporation, Nagpur
and others

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

Court's or Judge's orders

Shri D.A. Sonwane, Advocate for petitioner

CORAM : AVINASH G. GHAROTE, J.

DATE : 24/01/2023

1. Heard Shri D.A. Sonwane, learned counsel for the petitioner. The petition challenges the judgment dated 07/11/2019 (pg.43), whereby the complaint, filed by the petitioner challenging the imposition of punishment of stoppage of three increments, has been dismissed.

2. Shri Sonwane, learned counsel for the petitioner submits that the punishment imposed was clearly disproportionate to the misconduct, for which, the petitioner was held guilty and therefore, the impugned judgment is required to be quashed and set aside.

3. A perusal of the impugned judgment indicates that the complainant has been working as a bus driver with

respondent/Corporation and has already retired from services after filing of the complaint. During the course of his employment, by an order dated 29/09/2001, punishment of reduction of pay by three stages was imposed upon the petitioner having been held guilty, of misconduct on account of an accident due to the rash and negligent driving of the petitioner, which has resulted in head-on-collision of the bus with an oncoming Tipper/Truck on Nagpur-Saonar road on 24/08/2000. In another incident dated 10/02/2008 the petitioner had happened to bump his bus into another ST bus from behind at the traffic signal of Ravi Nagar square, Nagpur. In the departmental enquiry, following these incidents the petitioner was held guilty by the order dated 10/12/2010 and the pay was reduced by two stages. The departmental appeal filed there against also stood rejected. A representation also thereafter was rejected on 19/01/2012. In the proceedings before the learned Labour Court under Section 28 of the Maharashtra Recognition of Trade Unions & Prevention of Unfair Labour Practices Act, 1971, the preliminary issues regarding fairness of enquiry and following of principles of natural justice were answered in the negative by the order dated 16/09/2019 (pg.46).

4. The only question thus remained was whether the punishment imposed upon the petitioner, was disproportionate to the misconduct. The nature of misconduct, has already been indicated above, which has been considered by the learned

Labour Court while coming to the conclusion that the punishment imposed, cannot be called to be shockingly disproportionate as it was a fortuitous circumstance that there was no loss of life on account of the accidents. Merely because the petitioner has been acquitted in the State case bearing Criminal Case No.30/1986 and Criminal Case No.11840/2008 for the offence under Sections 353 and 294, 279 of Indian Penal Code that by itself would not deter from the findings recorded in the enquiry proceedings.

5. Considering the nature of the accidents, in which the petitioner has been involved, as indicated in the impugned judgment, I do not feel that the punishment imposed upon the petitioner, is disproportionate, considering which, there is no reason to interfere in the impugned order. The writ petition is therefore dismissed. No order as to costs.

6. The appropriate fees be paid to the learned counsel for the petitioner, who has been appointed from the Legal Aid Panel.

(AVINASH G. GHAROTE, J.)