



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

WRIT PETITION NO.7752 OF 2018

Maharashtra State Road Transport Corporation, through its Divisional Controller,
Amravati Division, Amravati .Vs. Suresh Govindrao Urkude

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 Bhushan Dafle, Advocate for the respondent.

CORAM : ANIL S. KILOR, J.

DATED : 21/08/2023

1. Heard.

2. In the present matter, the Industrial Court allowed the Complaint ULP No.28/2013 filed by the respondent and thereby quashed and set aside the order of punishment dated 21.01.2013 directing the petitioner to pay up to date salary including the arrears of wages.

3. The learned counsel for the petitioner has pointed out that the complaint was allowed on the ground that despite many chances were given to the petitioner, the petitioner failed to prove the misconduct before the trial Court as per the charge-sheet dated 25.02.2009. He has further pointed out that though the names of witnesses were informed to the concerned lawyer appearing before the Industrial Court vide letter dated 01.11.2017, he did not

takes sufficient care to protect the interest of the petitioner-Corporation.

4. It is submitted that, ultimately the amount which is directed to be paid to the respondent is a public money and if the respondent is not entitled to receive the same, only for the fault of lawyer, such payment should not be allowed to be made.

5. It is further submitted that an affidavit in this regard is filed pointing out that the action of removal of said lawyer from the panel of the Corporation was taken immediately.

6. The learned counsel for the respondent strongly opposed the present petition on the ground that the Corporation has not taken sufficient and necessary care to lead evidence and to prove the charges. He, therefore, prays for dismissal of the writ petition.

7. There is not doubt that the complaint was allowed only on the ground that the petitioner-Corporation failed to prove the misconduct before the trial Court as per the charge-sheet dated 25.02.2009.

8. The affidavit filed on 30.04.2019 gives the clear picture as regards the failure of lawyer appearing in the said complaint on behalf of the Corporation.

9. The learned Industrial Court vide impugned judgment and order dated 11.01.2018 directed the respondent to pay the up to date salary including arrears of wages.

10. Thus, I find substance in the submission of the learned counsel for the petitioner that this payment would be from the public money and for the reason that the lawyer has not taken care to defend the interest of the Corporation, such amount cannot be permitted to pay unless one opportunity is given to the Corporation to prove the charges, in the peculiar facts and circumstances of this case.

11. In the circumstances, I am of the opinion that, one opportunity should be granted to the petitioner-Corporation to lead evidence and to prove the charges against the respondent as per charge-sheet dated 25.02.2009, before the Court. Accordingly, I pass the following order:

- i) The writ petition is partly allowed.

- ii) The judgment and order dated 11.01.2018 passed by the Member, Industrial Court, Amravati in Complaint ULP No.28 of 2013, is hereby quashed and set aside.
- iii) The matter is remanded back to the learned Industrial Court, Amravati to decide the same afresh.
- iv) The learned Industrial Court is directed to decide the complaint within six months from today.
- v) The parties shall appear before the Industrial Court on **01.09.2023**.
- vi) Both the counsels for the respective parties have undertaken to co-operate the Industrial Court in deciding the matter within stipulated period.

The Writ Petition is **disposed of** accordingly. No order as to costs.

JUDGE