



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

Writ Petition (WP) No. 6238 of 2019

Maharashtra State Road Transport Corporation, through its Divisional
Controller, Nagpur

Versus

Anil Ramdasji Dhokne and others

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

Court's or Judge's Order

Shri V.P.Panpalia, Advocate for the petitioner.
Shri A.H.Jamal, Advocate for the respondent no.1.

**CORAM : ANIL S. KILOR, J.
DATED : 26th SEPTEMBER, 2023.**

Heard.

2. The judgment and order dated 27th February, 2019, passed by the learned Industrial Court No.3, Nagpur in complaint (ULP) No. 68 of 2014, cancelling the orders dated 3rd April, 2014 and 5th April, 2014, is under challenge in this writ petition.

3. The petitioner is the State Road Transport Corporation, Nagpur and the respondents are employees of the petitioner-Corporation.

4. The respondents were appointed as Conductor on daily wages vide order dated 10th March, 1989. On certain benefits denied to them including time scale on completion of 180 days, a complaint (ULP) No. 428 of 2008, came to be filed before the learned Industrial Court.

5. The said complaint came to be allowed and the respondents were granted regular time scale with effect from 23rd January, 1990 with all consequential benefits.

6. However, all of a sudden, without holding any enquiry or without following principles of natural justice the order dated 5th April, 2014 came to be issued by the petitioner-Corporation informing to the respondents that as per the decision in writ petition 4151 of 2011, he will stand reverted on the post of Conductor from the post of Traffic Controller and issued the order dated 3rd April, 2014 taking the respondent on time scale from 1st November, 1995 instead of 23rd January, 1990.

7. The said order gave cause to the respondents to file another complaint before the learned Industrial Court i.e. ULP No. 68 of 2014. The said complaint came to be allowed vide impugned judgment

and order dated 27th February, 2019. Hence, this petition.

8. From the record, it is evident that the earlier the complaint ULP No. 428 of 2008 was allowed, thereby the petitioner-Corporation granted the regular time scale with effect from 23rd January, 1990. Whereas, under the garb of the judgment of this Court dated 6th March, 2012 passed in writ petition No. 4151 of 2011, the order dated 3rd April, 2014 was issued granting time scale from 1st November, 1995 instead of 23rd January, 1990.

9. Admittedly, this Court in Writ Petition no. 4151 of 2011 has held respondents/complainants entitled to the reliefs subject to the satisfaction of the petitioner/Maharashtra State Road Transport Corporation that the respondent/ complainants satisfy all the conditions prescribed for their entitlement in terms of Resolution No. 8856 dated 31.8.1978 read with clause 19 of 1985 settlement.

10. If the petitioner-Corporation wants to take advantage of this order, it is bounden duty of the petitioner-Corporation to satisfy that the order dated 3rd April, 2014 was issued in compliance with the above referred observations or directions issued by this Court.

11. However, nothing has been produced on record to satisfy the learned Industrial Court or to this Court that the order dated 3rd April, 2014 is in accordance with the observations made by this Court in Writ Petition No. 4151 of 2011.

12. It is significant to produce on record necessary material to satisfy the Court that it is in accordance with the directions of the High Court in Writ Petition No. 4151 of 2011. It is necessary particularly when no hearing was granted to the respondents or no show cause notice was issued to the respondents before changing the date of benefit of time scale.

13. In the circumstances, this Court directed the petitioner-Corporation to produce the record vide order dated 30th August, 2023. However, the petitioner-Corporation has failed to produce the record on the ground that the record has been gutted in fire in the year 2022.

14. Admittedly, the complaint ULP No. 68 of 2014 was filed in the year 2014 and it was decided vide impugned judgment and order dated 27th February, 2019 much before the record was gutted in the fire.

15. In the circumstances, the fact remains that no record was produced before the learned Industrial

Court in order to satisfy the learned Industrial Court that the order dated 3rd April, 2014 was issued granting time scale from 1st November, 1995 instead of 23rd January, 1990, in compliance with the order of the High Court in Writ Petition No. 4151 of 2011.

16. In absence of any evidence contrary to the order passed earlier by the learned Industrial Court in complaint ULP No. 428 of 2008 granting regular time scale from 23rd January, 1990, I do not find any reasons to interfere with the impugned judgment and order dated 27th February, 2019, passed by the learned Industrial Court. Accordingly, the writ petition is dismissed.

[ANIL S. KILOR, J.]