

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

WRIT PETITION NO. 7004/2018

BHIMRAO S/O NARSING CHAVHAN

VS

MAHARASHTRA STATE ROAD TRANSPORT CORPORATION, WARDHA AND ANR.

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

Court's or Judge's Order

Mr. C.V. Jagdale, Advocate for the petitioner
Mr. Yohan Chougule h/f. Mr. Rohan R. Chhabra, Advocates for
respondents

CORAM : A. S. KILOR, J.

DATED : 19/06/2023

Heard.

2. This writ petition takes an exception to the judgment and order dated 17.09.2018 passed by the learned Industrial Court No. 2, Nagpur in Revision (ULP) NO. 2/2017 dismissing Revision (ULP) No. 2/2017 and upholding the judgment and order dated 09.12.2016 passed by the learned Labour Court, Wardha in Complaint (ULP) No. 34/2011 dismissing the complaint preferred by the petitioner.

3. The learned Counsel for the petitioner has drawn attention of this Court to the judgment and order passed by the learned Industrial Court, Nagpur in the Revision Application (ULP) No. 18/2015 (*The Divisional Traffic Officer, Maharashtra State Road Transport Corporation,*

Wardha and anr. Vs. Shri Bhimrao S/o. Narsing Chavan)

challenging the order dated 04.12.2012 on pre-point and judgment and order dated 26.08.2013 passed by the learned Labour Court, Wardha in Complaint (ULP) No. 34/2011 whereby the Labour Court declared that, the enquiry held is not fair and proper, findings of the enquiry officer are perverse and thereby set aside the order of the dismissal dated 30.08.2011.

4. The learned Industrial Court vide order dated 28.07.2016 allowed the revision and thereby quashed and set aside both the orders, namely, order dated 04.12.2012 on pre-point and judgment and order dated 26.08.2013 and remanded back the matter to the trial Court with direction to decide the procedural lacuna if any in conduct of enquiry alongwith perversity of findings as well as complaint on merit.

5. Accordingly, the learned Labour Court decided the matter after remand and passed the judgment and order dated 09.12.2016 dismissing the complaint. The petitioner carried the said judgment and order in revision before the learned Industrial Court who confirmed the order of the learned Labour Court by dismissing the revision application.

6. The learned Counsel for the petitioner states that though the fairness of inquiry was challenged before the

learned Industrial Court in the revision, the said point has not been dealt with. He has drawn attention of this Court to paragraph no. 13 of the order of the learned Industrial Court dated 28.07.2016 wherein the learned Industrial Court recorded the reasons for remand, which read thus:-

“13. It is clear that, the Competent Authority is competent to issue charge-sheet, conduct enquiry, asked certain questions by way of clarification to the witness, draw the findings, issue show cause notice also award the punishment, however, this aspect has not been properly considered by the Trial Court and totally lost the sight on the Disciplinary Rules of the Cooperation namely discipline and Appeal Procedure while passing the order on preliminary point vitiating the enquiry, therefore, the order under revision on pre-point is not only improper but erroneous also. In short, the order on pre-point suffers from error apparent on the face of record, hence I answer this point in the affirmative.”

7. The learned Counsel for the respondents fairly states that the learned Industrial Court has not dealt with pre-point and decided the matter on merit.

8. In the above referred facts and circumstance, I am of the opinion that the matter needs to be remanded back to the learned Industrial Court to decide the same afresh after taking into consideration the pre-point and the merits of the matter. Accordingly, I pass the following order:-

(I) The writ petition is partly allowed.

(II) The judgment and order dated 17.09.2018 passed by the learned Industrial Court No. 2, Nagpur is hereby quashed and set aside.

(III) The matter is remanded back to the learned Industrial Court, Nagpur to decide the same afresh after hearing both the parties.

(IV) The learned Industrial Court shall decide the matter within six months from today.

(V) In the meantime, protection granted by this Court to the services of the petitioner vide order dated 17.10.2018, shall continue.

JUDGE