



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

206 WRIT PETITION NO. 2183 OF 2001

DIVISIONAL CONTROLLER M.S.R.T.C. PARBHANI
VERSUS
MAHABUBKHAN HABIBKHAN

...
Advocate for the Petitioner : Mr. A.D. Wange
Advocate for Respondents : Mr. S.E. Siddiqui
...

CORAM : ARUN R. PEDNEKER, J.
Dated : October 17, 2024

PER COURT :-

1. Heard the learned counsel for the petitioner.
2. By way of the present writ petition, the petitioner/MSRTC challenges impugned judgment and order dated 10.1.2001 passed by the Industrial Court, Jalna in Revision (ULP) No. 23/1999, whereby MSRTC was directed to reinstate the complainant/present respondent in service with continuity and 50% backwages. The learned counsel for the petitioner has raised objection to grant of backwages.
3. Undisputedly the respondent/employee was dismissed from service vide order dated 24.1.1985 in terms of Regulation 61 of Bombay State Transport Employees' Service Regulations. It is pointed out that in the case of **Divisional Controller, Maharashtra State Road Transport Corporation, Nagpur Vs. Shridhari**, reported in 1990 (61) **Factories & Labour Reorts**, 455, the said regulation is held as unconstitutional and void and as such, the revisional Court has set aside the order dated 24.1.1985 issued under Regulation 61 and accordingly, termination order with 60 days pay was set aside.

4. By the impugned order, the Industrial Court has directed the MSRTC to reinstate the respondent/employee along with 50% backwages only and continuity in service. The respondent/employee was terminated in terms of Regulation 61, which is now set aside and the employee has been dismissed without following the due process and by granting him opportunity to defend the case. Further, no inquiry was conducted after the impugned order was passed by the Industrial Court into the misconduct of the employee. Since the services are terminated under Regulation 61 which is ex-facie illegal, no fault can be found with the impugned order. Respondent/employee was reinstated and has continued to work till his retirement and has now retired from service. Thus, the order passed by the Industrial Court is just and proper. I see no reason to interfere with the same. The writ petition is dismissed accordingly.

5. Liberty is granted to respondent/employee to withdraw the amount deposited in this Court.

(ARUN R. PEDNEKER, J.)

ssc/