



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

21 WRIT PETITION NO. 5301 OF 2023

**THE DIVISIONAL CONTROLLER
MAHARASHTRA STATE ROAD TRANSPORT CORPORATION
VERSUS
GOVERDHAN VITHAL JADHAV**

.....
Advocate for the Petitioner : Mr. Dhongade Anilkumar B.
Advocate for the Respondent : Mr. Bayas Anandsingh Sangramsingh
.....

**CORAM : Y.G. KHOBRAGADE, J.
DATE : 18.09.2024**

PC.:-

1. Heard Mr. Dhongade the learned counsel appearing for the Petitioner and Mr. Bayas the learned counsel appearing for the Respondent at length.
2. By the present petition the Petitioner-MSRTC is challenging the judgment and order dated 03.12.2021 passed by the learned Member, Industrial Court, Latur in Complaint (ULP) No.4/2014, whereby it has been declared that the Petitioner-Employer has indulged into unfair labour practice under Item 9 & 10 of Sch. IV of the MRTU and PULP Act and directed the Petitioner-Employer to provide a suitable alternate job to the Respondent on the same pay scale without terminating his services. It is further directed that

the Petitioner-Employer to pay wages to the complainant / Petitioner w.e.f. 12.02.2012 till the date of giving him alternate job and reimbursement of medical bill of Rs.62,472 on production of bills.

3. The Respondent/Employee herein is the Original Complainant and the Petitioner-MSRTC is the Respondent in Complaint (ULP) No.4/2014. The grievance of the Respondent-Employee is that, in the year 1989 he was appointed with the Petitioner -MSRTC as a Driver and since then he was in continuous employment. He was drawing basic wages of Rs.10,000/- + TA and DA and gross salary was of Rs.20,000/- per month. He was medically examined by the Medical Officer and subsequently he appeared before the Civil Surgeon, Osmanabad for medical check up. On medical examination the Respondent/Complainant was found suffering from Varicose Vein to his right lower limb. Accordingly, a medical certificate was issued on 25.05.2013 with recommendation for giving alternate work instead of driving job. However, the Petitioner/MSRTC issued a letter on 16.09.2013 and referred the Respondent/Employee to Medical Board, Solapur, Accordingly, the Respondent/Employee was declared medically unfit by the Medical Board, Solapur for the post of Driver.

4. The Respondent/Employee further contended that since he was declared medically unfit and was under observation for treatment w.e.f.

12.02.2012 to 26.11.2013, therefore, he was out of employment and no salary was paid to him. It is the case of Respondent that total 282 days leave are balance on his account. However, the Petitioner/MSRTC-Employer refused to pay wages to the Respondent, therefore on 21.08.2012 and 20.02.2013 the Respondent submitted representation, but neither the alternate employment was provided nor the wages were paid to him. Therefore, he filed a Complaint (ULP) No.4/2014 and prayed for declaration that the Petitioner-Employer indulged into unfair labour practices.

5. On 03.12.2021, the learned Member, Industrial Court, Latur passed the impugned judgment and order and held that on 03.12.2015 the MSRTC issued a circular which came into effect w.e.f. 07.02.2016 providing alternate employment to the persons who suffer physical disability. The Respondent/Employee approved the disability certificate issued by the Medical Board, Solapur, wherein the Respondent/Employee was found unfit for the driving as his right lower limb with chronic varicose vein venous ulcers, which falls within the ambit of 'Loco motor disability' provided under Section 2 (o) of the Persons With Disability Act, 1995 as well as under Section 2 (t) as the Respondent suffers more than 40% disability.

6. After going through the impugned judgment and order, it appears that the learned Member, Industrial Court considered the physical disability of

the Respondent/Employee as well as the provisions of the Persons With Disability Act, 1995 coupled with Circular dated 10.09.2008 issued by the MSRTC. Therefore, I do not find that the impugned judgment and order is perverse and no interference is called at the hands of this Court to disturb the findings recorded by the learned Member, Industrial Court, Latur. Since the Respondent/Employee was under treatment and he incurred expenses towards medication, therefore he is entitled for the reimbursement of the medical bill.

7. Since the Respondent/Employee sustained such disability during the course of his employment, therefore, as per the provisions of Section 47 of the Persons With Disability Act, 1995 the Respondent/Employee is entitled for the alternate suitable employment and also protection of his pay scale. The learned counsel appearing for the Respondent submits that the Respondent was provided alternate job on 05.05.2016 and upon attaining the age of superannuation the Respondent superannuated on 31.07.2021 and so also his retiral benefits have already been paid.

8. It is evident that the Respondent/Employee was out of employment w.e.f. 12.02.2012 to 05.05.2016 as the Petitioner-Employer did not provide alternate employment to the Respondent and he was compelled to sit at home without work, though he was not at fault. Therefore, the

Respondent/Employee is entitled for wages for the said period w.e.f. 12.02.2012 to 05.05.2016 along with the medical reimbursement bill, if he produces the bills.

9. In view of the above discussion, this petition is dismissed.

[Y.G. KHOBRADE, J.]