



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

981 WRIT PETITION NO. 585 OF 2019

Kailas Sukadeo Shinde

VERSUS

The Divisional Controller Maharashtra State Road Transport Corporation
Dhule

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Advocate for the Petitioner : Mr. S. P. Tiwari h/f Mr. Choudhari N. L.
None Present For Respondent.

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CORAM : ARUN R. PEDNEKER, J.

Dated : September 19, 2024.

PER COURT :-

1. Heard the learned Counsel for the petitioner.
2. By the present petition, the petitioner challenges the order passed by the Industrial Court in Complaint (ULP) No. 13 of 2015, dismissing the complaint filed by the petitioner. It is the case of the complainant that he was serving as a driver in the Dhule Depot. On 20/09/2013, he was assigned duty for driving bus from Dhule to Pune and back. On 21/09/2013, when he returned the bus to the Depot, there was no additional damage to any part of the bus. However, there was a crack in the front windshield of the bus and was detected on 20/09/2013 itself when he took the bus from the depot, and this fact was shown to the Vehicle Inspector – Shri I. S. Sharma.
3. However, a charge sheet was filed, and after holding a Departmental Enquiry, the petitioner was punished with an order for stoppage of his annual increment for two years. The said order was challenged by the petitioner in Complaint (ULP) No. 13/2015 before the Industrial Court. The Industrial Court, upon considering the evidence

presented, held that the enquiry was not completed in accordance with the principles of natural justice. However, it permitted the respondent to lead evidence, which was presented before the Industrial Court.

4. In the proceedings, the MSRTC examined Kantilal Jadhav (Assistant working at Depot), while the complainant examined the Conductor and did not step into the witness box. Mr. Kantilal Jadhav, who examined the bus on 21/09/2013 brought to the Depot and had found that there was crack developed in the front windshield and the Conductor side bus was dented. Upon considering all the material on record, the Industrial Court held that causing damage to the bus and leaving the depot without reporting the incident was a serious misconduct. Therefore, the stoppage of the annual increment for two years was not considered a disproportionate punishment for the misconduct proved against the complainant.

5. The court further held that the complainant/petitioner failed to prove that the respondent had engaged in unfair labor practices and that he was not entitled to any reliefs. It was also concluded that the petitioner/complainant failed to inform the Vehicle Inspector about the crack in the windshield, which was a serious lapse on the part of the driver. Additionally, the complainant had already been penalized on six prior occasions, with fines being recovered from him.

6. Challenging the said order in the present writ petition, the

petitioner submits that the punishment is excessive and that the windshield of the bus was already cracked before he took it out for trip to Pune. This fact was categorically considered by the Tribunal. It was noted that the driver made no report before taking the bus, and it was necessary for him to inform the concerned authorities before taking the bus on its route to Pune. The Tribunal also observed that the witness examined by the complainant, i.e., the conductor, did not inform the Vehicle Inspector about the crack in the windshield, despite the Inspector being available at the time when the bus was taken out. The Tribunal found that the witness only aimed to support the complainant's case.

7. This is a finding of fact rendered by the Industrial Court, which cannot be interfered with by this Court in the exercise of its writ jurisdiction unless its perverse. Once it was established that the misconduct, i.e., causing damage to the bus and leaving the depot without reporting it, was serious, the stoppage of the annual increment for two years could not be deemed disproportionate to the misconduct.

8. I find no error committed by the Industrial Court in exercising its jurisdiction.

9. In view of the same, the petition is dismissed.

(ARUN R. PEDNEKER, J.)

vj gawade/-.