

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.3196 OF 2004

Maharashtra State Road
Transport Corporation

.... Petitioner

V/s.

Anil Jyotiram Abhangrao (since
deceased through legal heirs)
1. Mrs. Surekha Anil Abhangrao
and Ors.

....Respondents

**WITH
WRIT PETITION NO.3199 OF 2004**

Maharashtra State Road
Transport Corporation

.... Petitioner

V/s.

Sudhakar Krishnaji Parchunde
(since deceased through legal
heirs)
1. Mrs. Padma Sudhakar
Parchunde and Ors.

....Respondents

**WITH
WRIT PETITION NO.3386 OF 2004**

Maharashtra State Road
Transport Corporation

.... Petitioner

V/s.

Anil Mahadeo Bhingare

....Respondent

**WITH
WRIT PETITION NO.3759 OF 2004
WITH
CIVIL APPLICATION NO.89 OF 2007**

**IN
WRIT PETITION NO.3759 OF 2004**

Maharashtra State Road
Transport Corporation

.... *Petitioner*

V/s.

Anna Baburao Pawar

....*Respondent*

**WITH
WRIT PETITION NO.9241 OF 2005
WITH
INTERIM APPLICATION NO.7790 OF 2023
IN
WRIT PETITION NO.9241 OF 2005**

Maharashtra State Road
Transport Corporation

.... *Petitioner*

V/s.

Prashant Sharad Khisti

....*Respondent*

**WITH
WRIT PETITION NO.9243 OF 2005**

Maharashtra State Road
Transport Corporation

.... *Petitioner*

V/s.

Prashant Sharad Khisti

....*Respondent*

Ms Pinky M. Bhansali for *Petitioner-MSRTC in WP/9241/2005, WP/3199/2004, WP/3759/2004 & WP/9243/2005.*

Mr. Yashodeep Deshmukh with *Ms. Vaidehi Pradeep* for the *MSRTC -Petitioner in WP/3196/2004 & WP/3386/2004 and for the Applicant in IA/12806/2023.*

Mr. S.G. Kudale for *Respondent in WP/9241/2005*

& WP/9243/2005 and for the Applicant in IA/7790/2023.

Mrs. A.R.X. Baxi for Respondent in WP/3199/2004 & WP/3196/2004, WP/3759/2004.

Mr. Suhas S. Inamdar for Respondent in WP/3386/2004.

CORAM : SANDEEP V. MARNE, J.

DATED : 28 November 2024.

P.C.:

1) Writ Petition Nos. 3196, 3199, 3386 and 3759 of 2004 challenge common Judgment and Order dated 30 August 1999 passed by the 2nd Labour Court, Kolhapur, allowing the Complaints of unfair labour practices instituted by Respondent-employees either challenging the termination orders or show cause notices issued for their termination. It appears that total 6 complaints were filed out of which Complainants in Complaint (ULP) Nos.119 of 1994 (Mr. Mohan Jalindhar Vhanmane) and 104 of 1997 (Mr. Shivaj Krushaat Dalave) were merely issued show cause notices proposing to impose punishment of dismissal, whereas in respect of the rest of the Complainants- viz. Mr. Sudhakar Krishnaji Parchunde, Anna Baburao Pawar, Anil Jyotirao Abhangrao and Anil Mahadeo Bhingare, dismissal orders were already passed. The charge levelled against all the 6 Complainants essentially alleged misconduct of contesting elections without seeking prior permission and while being in the service of the transport corporation. It was alleged that such conduct on the part of the Respondent-employees

was in violation of the circular dated 17 November 1985. The Labour Court set aside show cause notices in respect of the 2 employees and termination orders in respect of rest of the four employees by holding that the concerned employees were never made aware about the said circular. The Labour Court accordingly restrained the Petitioner-Corporation from dismissing the two employees and directed reinstatement of the four employees with continuity of service and full backwages.

2) Aggrieved by the judgment and order dated 30 August 1999 passed by the Labour Court, the Petitioner-Corporation preferred five Revision Applications before the Industrial Court, Solapur. For some unknown reason, the Petitioner-Corporation did not challenge the order of the Labour Court in the case of Shivaj Krushaat Dalave (Complainant in Complaint (ULP) No.104 of 1997). It appears that he was continued in service since the show cause notice issued to him was set aside. Five Revision Applications filed by the Petitioner-Corporation came to be dismissed by the Industrial Court by common judgment and order dated 20 November 2003, which is subject matter of challenge.

3) So far as Writ Petition Nos. 9241 and 9243 of 2005 are concerned, it appears that the employee therein (Mr. Prashant Sharad Khisti) also faced similar charge of contesting election without prior permission. He was issued show cause notice proposing to dismiss him from service and secured interim order and thereby continued in service. Complaint (ULP) No.107 of 1994

filed by Prashant Khisti came to be allowed by Labour Court by judgment and order dated 21 September 2001 and Revision filed by Petitioner-Corporation is dismissed by the Industrial Court by judgment and order dated 2 March 2005.

4) It appears that Petitions were initially admitted by granting blanket stay on the impugned judgment and orders of the Labour Court and Industrial Court. However, subsequently by order dated 11 August 2004 this Court noticed that the Petitioner-Corporation had reinstated the terminated employees and had continued the services of those, who were merely issued show cause notices. Therefore, this Court continued the stay only in respect of backwages. Thus, during pendency of the present Petitions, Respondent-employees continued to work with the Petitioner-Corporation and have retired from service. It appears that two of the employees have unfortunately passed away during pendency of the Petitions and their legal heirs are brought on record.

5) Mr. Kudale, the learned counsel appearing for Respondent - Prashant Sharad Khisti would complain that though the said employee has retired from service on 31 October 2023, his retirement benefits have not been released.

6) Thus, all the Respondent -employees have continued in service during pendency of the Petitions and after attaining the age of superannuation, have retired from service. Petitioner-Corporation does not have pension scheme at par with the State

Government. The retired employees are paid nominal amount of pension in addition to gratuity, provident fund, leave encashment, etc. Since all the Respondents-employees have continued to serve with Petitioner-Corporation during long pendency of the present Petitions, I do not see any reason for now interfering in the impugned orders passed by the Labour Court and the Industrial Court at this belated juncture. Since Petitioner -Corporation continued the services of Respondents-employees, nothing really survives in the present Petitions. The only issue that possibly may survive is about payment of backwages to the Respondents-employees. Considering the unique facts and circumstances of the present case, where Respondents-employees have long since retired after rendering services during pendency of the present Petitions and are now awaiting retirement benefits, in my view the issue of payment of backwages need not be a reason for examining the merits of the present Petitions. Even otherwise, the Petitioner-Corporation cannot be saddled with liability to pay backwages when the employees admittedly contested elections without prior permission. Mr. Kudale would in fact submit that his client is more interested in receiving retirement benefits owing to his ill health for his medical treatment than the backwages.

7) In my view therefore, the Petitions can be disposed of without disturbing the orders passed by the Labour Court and the Industrial Court except to the extent of direction for payment of backwages to the terminated employees.

8) The Orders passed by the Labour and Industrial Courts are accordingly not disturbed. It is however clarified that Respondent-employees shall not be entitled to backwages in respect of the period that they remained outside the service. Petitioner-Corporation shall pay to each of the Respondent-employees their due retirement benefits in respect of the services rendered by them within a period of three months from today.

9) Mrs. Baxi, the learned counsel appearing for Respondent - Anna Baburao Pawar would complain that the State Road Transport Co-operative Bank is not releasing the amount standing to the credit of the said Respondent in his bank account on account of the pendency of the present Petitions. The said amount shall forthwith be released.

10) With the above directions, Writ Petitions are **disposed** of. Rule is discharged.

11) In view of disposal of the Writ Petitions, all pending Applications stand disposed of.

[SANDEEP V. MARNE, J.]