

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO.6295 OF 2003****WITH****CIVIL APPLICATION NO.3020 OF 2016****IN****WRIT PETITION NO.6295 OF 2003**

Maharashtra State Road Transport
Corporation, having its office at
Vahatuk Bhavan, Dr. A. Nair Marg,
Belasis Road, Bombay Central,
Mumbai 400 008

....Petitioners

V/s.

Ajit Vitthal Manjarekar
At and Post : Talawade, (Gadgewadi),
Tal.-Sawantwadi, District-
Sindhudurg.

....Respondent

Ms Pinky Bhansali, i/b. M/s. G.S. Hegde and Associates for the Petitioner.

Mr. Chinmay Gupte for the Respondent.

Mr. Ajit Manjarekar, Respondent No.1, present in Court.

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CORAM : SANDEEP V. MARNE, J.

Dated : 11 July 2024.

P.C. :

1) This Petition is filed by Maharashtra State Road Transport Corporation challenging the Judgment and Order dated 10 January 2002 passed by the learned Member, Industrial Court, Kolhapur by which the

Revision Application filed by the Petitioner -Corporation has been partly allowed. While maintaining the declaration of the Labour Court in order dated 22 June 1992 about engagement in unfair labour practices and reinstatement in service, the Industrial Court has granted liberty to the Petitioner-Corporation to impose punishment other than dismissal on the Respondent. In short, the order of the Labour Court directing reinstatement with continuity in service and full back wages stands replaced with order for reinstatement by imposition of lesser punishment than dismissal.

2) Respondent-employee came to be appointed as a Driver in the Petitioner-Corporation on 22 May 1988. On 1 November 1989 while driving bus of the Petitioner-Corporation from Malvan to Belgaum route, an accident occurred, which resulted in death of a moped driver. Domestic enquiry was instituted against the Respondent, in which charge was held to be proved and Respondent was dismissed from service by order dated 2 April 1990. The Labour Court allowed the Complaint filed by Respondent by its order dated 22 June 1992 and directed Respondent's reinstatement in service with continuity and full back wages.

3) Aggrieved by the order of the Labour Court, Petitioner -Corporation filed Revision Application (ULP) No. 122 of 1992 before the Industrial Court, Kolhapur, which has partly allowed the Revision. The findings as regards engagement in unfair labour practices are upheld by the Industrial Court. However, the Industrial Court has held Respondent guilty of over speeding and has directed that the Respondent deserves punishment for misconduct. The Industrial Court has therefore granted liberty to the

Petitioner-Corporation to impose penalty other than dismissal on Respondent. Judgment and Order dated 10 January 2002 passed by the Industrial Court is under challenge in the present Petition.

4) I have heard Ms. Bhansali, the learned counsel appearing for the Petitioner-Corporation and Mr. Gupte, the learned counsel appearing for the Respondent -employee.

5) It appears that in pursuance of order passed by the Labour Court on 22 June 1992, Respondent has worked on the position of Driver in the Petitioner-Corporation. This aspect is noted by this Court while admitting the Petition by order dated 12 April 2004. Mr. Gupte, would submit that Respondent has worked till attaining the age of superannuation and has retired on 31 May 2016. It appears that on account of pendency of the present Petition, the Petitioner -Corporation has not implemented order of the Industrial Court of imposing punishment less than dismissal on Respondent.

6) Thus Respondent was allowed to work till his retirement. Considering the position that the Respondent has virtually continued in service, except during the period from 2 April 1990 (date of dismissal) till 22 June 1992(date of order of the Labour Court) and has retired from service on 31 May 2016, I am of the view that it is not necessary to disturb the order passed by the Industrial Court at this stage. Nothing would therefore survive for adjudication in the Petition.

7) The next issue is about implementation of order of the Industrial Court for imposition of punishment less than dismissal. Ms. Bhansali would submit that the immediate next punishment to dismissal is stoppage of three annual increments. Instead of letting the Petitioner-corporation to decide the penalty and to avoid any further litigation on the subject, it would be appropriate that said penalty of withholding of three increments permanently be imposed on Respondent considering the fact that the accident has resulted in death of a person and Respondent is found guilty of over speeding.

8) Accordingly, the Petitioner-Corporation shall impose the punishment of permanent withholding of three annual increments on Respondent with effect from 2 April 1990 and treat him as in continuous service from the date of his appointment till the date of his retirement. After expiry of the period of the penalty, the annual increments in respect of the Respondent shall be released and monetary benefits arising out of implementation of the modified penalty together with retirement benefits shall be paid to the Respondent withing a period of four months from today.

9) With the above directions, the Writ Petition is disposed of. Rule is discharged. No costs.

10) Civil Application stands disposed of.

[SANDEEP V. MARNE, J.]