

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

WRIT PETITION NO. 9140 OF 2004

Shamsuddin Mahmudal Pathan

... Petitioner

Versus

Revisional Competent Authority, MSRTC And Anr.

... Respondents

Mr. Tanaji Mhatugude *for Petitioner.*

Ms. Pinky Mohanlal Bhansali *a/w Dharini Jain for Respondents.*

CORAM : SANDEEP V. MARNE, J.

DATE : 26 SEPTEMBER 2024.

P.C. :

1) The Petition challenges Judgment and Order dated 7 October 2004 passed by the Industrial Court, Kolhapur dismissing Revision Application (ULP) No. 19 of 2004 and confirming the Order dated 15 April 2004 passed by the Labour Court, Kolhapur at Exhibit U-2 in Complaint (ULP) No. 245 of 2003. The Complaint was filed by Petitioner challenging show cause notice dated 10 September 2003 issued by Reviewing Authority and the Divisional Controller, Kolhapur proposing to enhance the penalty from reduction of pay by one stage for one year to dismissal from service.

2) Petitioner filed application at Exhibit U-2 seeking interim relief against the show cause notice dated 10 September 2003 and the said application was rejected by order dated 15 April 2004. Refusal of interim relief has been confirmed by the Revisional Court by Order dated 7 October 2004. Both the orders are under challenge in the present Petition. This Court issued notice to Respondent-State Road Transport Corporation on 10 November 2004 and directed maintenance of *status-quo* in respect of services of the Petitioner. The Petition was subsequently admitted by order dated 9 June 2005 by continuing the interim order.

3) It appears that on account of interim order granted by this Court Petitioner was continued in service. He attained the age of superannuation on 30 September 2014 and has accordingly retired from service. In that view of the matter, nothing remains to be adjudicated in the present Petition.

4) It is also seen that there is statutory limit of one year for exercising *suo moto* power of revision. The initial penalty order reducing the pay by one stage for one year was passed on 28 September 2002. No doubt the Reviewing Authority's show cause notice is issued on 10 September 2003 i.e. within a period of one year. However, affidavit-in-reply filed on behalf of Respondent-Corporation would indicate that the show cause notice was served with substantial delay on 3 November 2003 i.e. after expiry of period of one year.

5) Be that as it may. Since Petitioner has continued in service on account of grant of interim order by this Court, in my view no purpose would be served in determining correctness of orders passed by the Labour Court and the Industrial Court.

6) The Respondent-Corporation shall accordingly implement the earlier penalty of reduction of pay by one stage for one year on the Petitioner. Show cause notice dated 10 September 2003 shall stand set aside. Respondent-Corporation shall release all the withheld retirement benefits of the Petitioner within a period of four months. To this limited extent, the Writ Petition is **partly allowed**. Rule is made partly absolute. There shall be no order as to costs.

[SANDEEP V. MARNE, J.]