

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

WRIT PETITION NO. 3490 OF 2020

Maharashtra State Road
Transport Corporation

... Petitioner

Versus

Sonaji Narhari More

... Respondent

Ms. Pinky M. Bhansali *a/w Ms. Dharini Jain for the Petitioner.*

Mr. Suhas Inamdar *for the Respondent.*

CORAM : SANDEEP V. MARNE, J.

DATE : 14 DECEMBER 2024.

P.C. :

1) The Petition challenges the Judgment and Order dated 16 April 2015 passed by the learned Member Industrial Court, Solapur allowing Complaint (ULP) No. 12 of 2012 and setting aside show cause notice dated 21 February 2012 to the Respondent. The said show cause notice dated 21 February 2012 was issued after the Respondent was found guilty of the charge in domestic enquiry and penalty of reduction of pay by three stages was proposed in the show cause notice.

2) I have heard Ms. Bhansali, the learned counsel appearing for Petitioner-MSRTC and Mr. Inamdar the learned counsel appearing for Respondent.

3) After having considered the submissions canvassed by the learned counsel appearing for parties, it is seen that domestic enquiry was initiated against the Respondent in connection with an accident that occurred on 7 February 2010 when the Respondent was driving Petitioner's bus on Boriwali-Barshi route and Respondent's bus dashed against another bus of MSRTC plying on Bhivandi-Solapur route from rare side and several passengers traveling in the bus driven by the Respondent were injured, in addition to damage to both the buses. It appears that accident report was prepared and Respondent was subjected to domestic enquiry by issuance of a chargesheet. The Enquiry Officer gave report holding the charge to be proved and accordingly show cause notice dated 21 February 2012 was issued for imposition of punishment of reduction by three stages with cumulative effect.

4) Respondent challenged the show cause notice dated 12 February 2012 by filing Complaint (ULP) No. 12 of 2012 before the Industrial Court, Solapur. The Industrial Court has allowed the Complaint mainly by holding that there is documentary evidence on record showing that the accident took place due to mechanical defect of failure of breaks of the bus and not due to fault on the part of the Respondent driver. The Industrial Court has thus appreciated the evidence and thereafter arrived at a conclusion that the Respondent-Employee was not really responsible cause of accident.

5) In exercise of jurisdiction under Article 227 of the Constitution of India, this Court is not expected to re-appreciate the evidence and arrive at a finding different than the one arrived at by the Industrial Court especially in absence of any element of perversity.

6) There are two additional factors why Court would not be inclined to entertain the present Petition. The order of the Industrial Court was passed on 16 April 2015, whereas the present Petition is filed after delay of more than four years on 6 September 2019. The Petition does not plead any reason for this inordinate delay in filing the present Petition. The next factor is that the Respondent-Employee is on the verge of the retirement and he is retiring from service 31 December 2024. This is yet another reason why this Court would not permit the Petitioner-MSRTC to now inflict the penalty on him in respect of an incident, which has occurred 14 years ago.

7) Thus, for all three grounds of absence of any patent error in the order passed by the Industrial Court, inordinate delay in filing the present Petition as well as impending retirement of the Respondent-Employee, I am not inclined to entertain the Petition. Writ Petition is accordingly rejected. There shall be no order as to costs.

[SANDEEP V. MARNE, J.]