

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

**WRIT PETITION NO. 4269 OF 2024**

Divisional Controller Maharashtra

State Road Transport Corporation

**... Petitioner**

**Versus**

Rasik Ramesh Kadam

**... Respondent**

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**Mr. Yashodeep Deshmukh** *i/b Ms. Vaidhehi Pradeep (Through V.C.)  
for the Petitioner.*

**Mr. Vidyanand J. Jog** *for the Respondent.*

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**CORAM : SANDEEP V. MARNE, J.**

**DATE : 4 SEPTEMBER 2024.**

**P.C. :**

1) The Petitioner-Maharashtra State Road Transport Corporation (**MSRTC**) has filed its Petition challenging the Judgment and Order dated 10 October 2023 passed by Industrial Court-1, Kolhapur allowing Complaint (ULP) No. 107 of 2021 and setting aside the Order dated 1 April 2021 with further directions to MSRTC to provide alternate employment to the Complainant with back wages from 27 March 2019.

2) I have heard Mr. Deshmukh, the learned counsel appearing for Petitioner-MSRTC and Mr. Jog, the learned counsel appearing for Respondent-Employee.

3) After having considered the submissions canvassed by the learned counsel appearing for the parties, it is seen that the Petitioner-MSRTC has acted in most arbitrary manner while dealing with the case of Respondent. During the course of his medical examination, Respondent was found to be unfit to work as driver or conductor by certificate dated 27 March 2019. The said certificate was issued by District Surgeon in Government Hospital, Ratnagiri. If there was any doubt about the said certificate, Petitioner-MSRTC ought to have referred Respondent to medical board. However, acting upon the said certificate dated 27 March 2019 and accepting the same as correct, Petitioner proceeded to terminate services of the Respondent by order dated 5 June 2020 retrospectively with effect from 27 March 2019. The certificate had clearly suggested grant of alternate employment to the Respondent except on the post of driver or conductor. Thus, the step taken by the Petitioner-MSRTC in terminating the services of Respondent despite clear opinion of Civil Surgeon for grant of light work is clearly arbitrary and unsustainable. Even otherwise, mere acquisition of disability by an employee cannot be a reason for terminating his services.

4) In my view, therefore, no error is committed by the Industrial Court in directing grant alternate employment to the Respondent. Since the entire action of the Petitioner is found to be arbitrary and in violation of provisions of Persons With Disabilities Act, 2016, it is not necessary to interfere even if the direction for payment of backwages from 27 March 2019. Writ Petition is accordingly rejected.

**[SANDEEP V. MARNE, J.]**