



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Writ Petition (WP) No. 6168 of 2024

Ms. Shila D/o Ashok Naik

Versus

Maharashtra State Road Transport Cooperation through Divisional
Traffic Superintendent, Nagpur

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri C.V.Jagdale, Advocate a/w Mrs. M.V.Chindholkar,
Advocate for the petitioner.
Shri A.S.Mehadia, Advocate for the respondent.

CORAM : N.R.BORKAR, J.
DATED : 15th OCTOBER, 2024.

This petition takes exception to the order dated 30th August, 2024 passed by the learned Industrial Court, Nagpur in Revision (ULP) No. 49 of 2023.

2. The petitioner is working as a conductor with the respondent. On 3rd October, 2018 the bus, on which the petitioner was discharging her duties as a conductor, was checked by the checking squad and one of the passenger was found to be travelling without ticket. The respondent thus conducted the departmental inquiry against the petitioner and on being

found guilty of misconduct issued notice to show cause, why she should not be dismissed from service. The petitioner being aggrieved by the said show cause notice had filed the complaint before the Labour Court. By order dated 13th January, 2023, the learned Labour Court held that the departmental inquiry conducted by the respondent was not fair and proper, and permitted the parties to adduce the evidence. After recording the evidence and hearing the parties the learned labour Court by order dated 8th May, 2023 dismissed the complaint filed by the present petitioner.

3. Petitioner, being aggrieved by the judgment and order passed by the learned Labour Court had filed the revision before the Industrial Court. By the impugned order, the learned Industrial Court has dismissed the revision.

4. I have heard learned counsel for the petitioner and the learned counsel for the contesting respondent.

5. The learned labour Court has recorded the following findings:

“14. From above oral and documentary evidence of respondent, it is made out that when the bus of complainant was checked, there were 5 passengers and 12 pass holders and out of 5 passengers, 1 passenger travelling from Ramtek to Mansar was without ticket of denomination of Rs.10/-. It is also made out that

complainant had neither collected any fare from said passenger nor issued any ticket to him. It appears that the bus was checked at the Mansar, where said without ticket passenger was about to alight the bus after completion of his journey. Thus, it is made out that no ticket was issued to him till the completion of his journey to destination. It is also made out that the bus was not crowded as only 17 passengers were present in the bus, whereas the capacity thereof is of more than 60 passengers. From the inspection report at Exh.C-7 it appears that said bus departed from Ramtek at about 18:21:17. The first inspection report was obtained from ETI machine at about 18:30:12. Thus, it appears that there was time gap of about 9 minutes in between the departure of bus and checking thereof at the Mansar. The time of about 8 to 9 minutes appears to be sufficient to issue ticket to 5 passengers. So far entry of pass holders is concerned, it is the case of complainant herself that the entries of said 12 pass holders were not made in ETI machine on account of low charging. Had it been the case that complainant had made entries of pass holders in ETI machine, then there would have been ground to deduce that considerable time was consumed in making the entries of pass holders and therefore, the ticket could not be issued to concerned without ticket passengers. But it is not the case.”

6. As regards the past service record of the petitioner, the learned Labour Court has recorded the following findings:

“26. So far past service record of the complainant is concerned, respondent produced the Default Card of complainant at Exh.C-3/9. Therefrom it is made out that in past she was punished for about four times for similar misconduct of not issuing tickets and not collecting fare amount. Since complainant did not enter into witness box to state about her past service record,

the said Default Card wherein the punishments imposed upon her are shown, has to be considered as it went unchallenged. Such Default Card shows that complainant is habitual in committing similar misconduct. It is not the first instance. That apart, she was also penalised for different misconducts committed for about 20 occasions. There are about 25 entries of various punishments in said Default Card which were imposed on her. Thus, her past service record is extremely blemished.”

7. Learned counsel for the petitioner submits that the respondent has not examined necessary witnesses so also independent witnesses. It is submitted that the learned Labour Court has, therefore, erred in recording the finding that the respondent has proved the alleged misconduct against the petitioner. It is submitted that there was no charge of misappropriation of amount against the petitioner, however, the learned Labour Court has made certain observation in that respect also.

9. On the other hand, learned counsel for the respondent has supported the impugned judgments and orders. It is submitted that to prove the alleged misconduct the respondent has examined the concerned Inspector, who was part of checking squad. It is submitted that no motive is attributed to the said witness for deposing against the petitioner and therefore the learned Labour Court has rightly relied upon his

evidence. It is submitted that no interference is thus called for in the impugned judgments and orders.

9. I have perused the impugned judgments and orders. There is no perversity in the impugned judgments and orders warranting interference in the writ jurisdiction. In that view of the matter, I am not inclined to entertain the present petition. The petition is dismissed.

10. The learned counsel for the petitioner submits that two weeks time be granted to the petitioner to file reply to the show cause notice. Time as sought is granted.

11. After receipt of the reply, the respondent shall pass appropriate order, without being influenced by the order passed by this Court or the Courts below.

12. Needless to mention that it would be open to the petitioner to challenge the punishment, if any, imposed on the ground of disproportionality.

[N.R.BORKAR, J.]