



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.8190 OF 2023

Rajesh s/o Shyam Rajankar
Aged 48 yrs. Occ. Traffic Inspector in
ST, R/o. Shri Panded, Dreamland City Road,
Behind Prajakta Vidyalaya, New Khetan Nagar,
Kaulkhed Road, Akola – 444004. **PETITIONER**

...V E R S U S...

1. Regional Manager,
Maharashtra State Road Transport Corporation,
Shivaji Nagar, Amravati – 444601.
(Now Deputy General Manager,
M.S.R.T.C., Controlling Authority No.3,
S.T. Officers Qtrs., Ganeshpeth,
Nagpur-440018.
2. Divisional Controller,
Maharashtra State Road Transport Corporation,
Division Office, Kaulkhed Road,
Akola – 444004. **RESPONDENTS**

Mr. S. N. Nerkar, Advocate for Petitioner.
None for Respondent No.1.
Mr. P. S. Gavai, Advocate for Respondent No.2.

CORAM: **ANIL L. PANSARE, J.**
DATE: **10th JULY, 2024.**

ORAL JUDGMENT:

1. Rule. Rule made returnable forth. Heard finally with
consent of learned counsel appearing for the parties.

2. The petitioner was working on the post of Traffic Inspector with the respondent No.1 – Maharashtra State Road Transport Corporation, Shivaji Nagar, Amravati (for short 'MSRTC'), he was charge-sheeted by respondent No.2, Divisional Controller, MSRTC which was followed by enquiry and punishment of dismissal from service. The petitioner preferred appeal against the order of dismissal before the respondent No.1, the appeal was partly allowed. The punishment of dismissal was set aside and was reduced to reduction of basic pay by two stages with permanent effect. The petitioner approached the Industrial Court, Akola challenging entire disciplinary action. The respondent raised preliminary objection that the complaint is not maintainable as the petitioner is not a workman.

3. The Industrial Court considered duty profile of the Traffic Inspector. The Tribunal referred to the cross-examination of the petitioner wherein he admitted that his main duty was to allocate the duties to Conductors and Drivers in Akola depot, maintaining the administration of the depot, allocating duties to the employees of the depot and so on. These admissions, according to the Tribunal were self-sufficient to infer that the nature of duties performed by the petitioner were of the

managerial cadre and are not performed by any workman. Accordingly, the Tribunal rejected the complaint as not maintainable.

4. The counsel for the petitioner has invited my attention to the chief examination of the petitioner wherein he deposed that the increment in salary to Traffic Inspector is given in terms of the agreement entered into with the workman, which fact, according to counsel, is sufficient to prove that the Traffic Inspector was treated as workman. There is no cross-examination on this point.

5. At this stage, the counsel for respondent submits that the petitioner has not filed any document in support. As against, the counsel for petitioner submits that though the documents were not filed before the Tribunal, the petitioner was in possession of the document and he would have produce, had he been called upon to do so in the cross-examination. In fact, the petitioner intends to rely upon certain documents which the petitioner has filed in the present petition.

6. To my mind, these documents, which were not placed

before the Tribunal, cannot be looked into for the first time in the present petition. However, what appears is that in the chief examination the petitioner claimed that the increment in salary of the Traffic Inspector was based on the agreement with workman. There is no effective cross-examination on this point. At the same time, production of document on this point is equally importance.

7. In that view of the matter, in my considered view, it will be appropriate to grant one opportunity to the petitioner to lead evidence in this regard by filing necessary documents.

8. Accordingly, the judgment dated 08.06.2023 passed by the Industrial Court, Akola in Complaint ULP No.92/2016 is quashed and set aside. The complaint is remanded back to the Industrial Court for decision afresh. The Complaint ULP No.92/2016 is restored on the file of Industrial Court, Akola for decision in accordance with law. The petitioner is at liberty to file documents to substantiate his claim, which will be subject to cross-examination.

9. The party shall appear before the Industrial Court, Akola on 29.07.2024.

10. The petition is disposed of in the above terms.

No order as to costs.

(ANIL L. PANSARE, J.)

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