

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 866 OF 2025

1. The Works Manager
Maharashtra State Road Transport
Corporation (ST), Central Workshop,
Chikalthana, Aurangabad,
Dist. Aurangabad.
2. The Superintendent (Coach),
Maharashtra State Road Transport,
Corporation (ST), Central Workshop,
Chikalthana, Aurangabad,
Dist. Aurangabad. ..Petitioners

Versus

Chandrakant Madhavrao Chande,
Age : 41 years, Occu. : ST Service,
R/o Plot No.200, Rajiv Gandhi Nagar,
N-2, CIDCO, Mukundwadi,
Aurangabad, Dist. Aurangabad ..Respondent

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Advocate for Petitioners : Mr. D.S. Bagul
Advocate for Respondent : Mr. P.L. Shahane h/f Mr. P.P. Shahane

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CORAM : S. G. CHAPALGAONKAR, J.

RESERVED ON : AUGUST 11, 2025

PRONOUNCED ON : AUGUST 13, 2025

JUDGMENT :-

1. Rule. Rule made returnable forthwith. Heard finally with consent of parties.
2. The petitioner/MSRTC impugns order dated 22.10.2024 passed below Exhibit U-2 by Labour Court, Aurangabad in Complaint ULP No.32 of 2024, as well as judgment and order dated 03.12.2024

passed by Industrial Court, Aurangabad in Revision Application (ULP) No.53 of 2024 thereby confirming the order of Labour Court.

3. The respondent is employed as driver with petitioner/corporation since 2009. He was promoted as vehicle examiner and posted at S.T. Central Workshop at Chikalthana. On complaint of one of fellow employee, alleging misbehavior against respondent, he was served with charge sheet under clause 10, 26, 28, 33, 47 and 60 (E) of Discipline and Appeal Procedure. Immediately, respondent was placed under suspension and on conclusion of inquiry, served with show cause notice dated 14.10.2024 before dismissal from services. He was called upon to reply within a period of seven days.

4. The respondent filed Complaint ULP No.32 of 2024 before Labour Court impugning show cause notice, under Section 30 (2) of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971. The learned Judge, Labour Court was pleased to issue notice to respondent and posted the matter for reply/appearance on 21.10.2024. On that day petitioners appeared before the Labour Court and passed on a pursis contending that as respondent is terminated from service, the challenge raised in complaint is rendered infructuous. In this background, the learned Labour Court passed interim order below Exhibit U-2 and stayed the dismissal order dated 21.10.2024 till final disposal of complaint. The

order passed by Labour Court was then assailed by petitioners in Revision Application No.53 of 2024. However, the Industrial Court pleased to dismiss the revision application thereby upholding the interim relief granted by Labour Court.

5. Mr. D.S. Bagul, learned advocate appearing for petitioners vehemently submits that respondent was put under departmental inquiry. The inquiry report was submitted to competent authority which contains finding of guilt against respondent. Eventually, show cause notice dated 14.10.2024 was served upon respondent and dismissal order is passed on 21.10.2024. However, the learned Labour Court stayed the dismissal order in complaint having restricted challenge to show cause notice. He would endeavour to contend that without there being amendment in complaint challenging dismissal order, interim stay to dismissal could not have been granted. According to Mr. Bagul, interim order in the nature of final relief is passed without necessary prayers in the complaint.

6. According to Mr. Bagul, show cause notice dated 14.10.2024 was served upon respondent and he was called upon to reply within a period of seven days. Finally on 21.10.2024, dismissal order is passed. The respondent had option to challenge dismissal order by filing independent complaint or asking amendment in present complaint. In absence of challenge to dismissal order, interim

relief could not have been granted. According to Mr. Bagul, both Courts have travelled beyond pleadings and prayers. Mr. Bagul would endeavour to point out that the learned Labour Court entered into merits of matter, which was not permissible at this stage. In support of his contention, Mr. Bagul relies upon observations of this Court in case of **Maharashtra State Road Transport Corporation Dhule Vs. Limba Mangalsingh Thakur** in Writ Petition No.1793 of 2016 decided on 07.09.2016.

7. Per contra, Mr. Shahane, learned advocate appearing for respondent strenuously contends that the order of dismissal was never served upon the respondent. The dismissal order is issued only with an intention to frustrate the complaint filed by respondent assailing show cause notice before termination. He would submit that inquiry conducted by respondent is vitiated for want of observance of principles of natural justice. According to him, the inquiry was illegally completed with undue haste with intention to victimize the respondent. Mr. Shahane would point out that when show cause notice was served granting seven days time for reply, the dismissal order passed without waiting for seven days period cannot be countenanced. In support of his contention, he relies upon observations of this Court in the case of **Madhukar Shrirang Sonwane and Anr Vs. Tatyrao Gangaram Mule reported in 2017 ALL MR (Cri) 1004**, so also observations of Hon'ble Supreme Court in the case of

State of Punjab Vs. Amar Singh Harika reported in AIR 1966 SC 1313

to contend that dismissal would not be effective unless it is published and communicated to the officer concerned.

8. Having considered submissions advanced, it can be observed that respondent raised challenge to show cause notice before dismissal by filing Complaint ULP No.32 of 2024. He had filed an application seeking interim relief. The Labour Court was pleased to issue notice to respondent and made it returnable on 21.10.2024. However, as soon as respondent was served with the notice of Court, on the date of appearance, they submitted dismissal order with pursis contending that prayers in complaint became infructuous.

9. It can be observed that notice before dismissal was served upon respondent on 14.10.2024 with specific stipulation that he shall reply within a period seven days. However, show cause notice was subjected to challenge in complaint before the Labour Court. On returnable date of notice in complaint, an order of dismissal dated 21.10.2024 was put up before the Labour Court. *Prima facie*, there is reason to believe that such order was never served upon the respondent. Similarly, the abrupt action of dismissal from service without waiting for completion of seven days period was with intention to frustrate the prayers in complaint which raises challenge to show cause notice.

10. The Labour Court has observed that inquiry initiated against the complainant was completed in hasty manner and conclusion of Inquiry Officer is based on complaint given by Smt. Potulkar, who was not examined during inquiry. Even the particulars or words offending modesty are not referred in inquiry report. The Labour Court, therefore, *prima facie* held that recommendation made by Inquiry Officer was based on insufficient material to prove the charge against employee.

11. The learned Industrial Court also concurred with the Labour Court on aforesaid aspects and observed that the order of dismissal is passed in morning of 21.10.2024 before completion of seven days notice period. The dismissal order was never served upon the respondent but was directly placed on record of Labour Court. There was no communication of dismissal order to respondent. As such, the purpose of issuing abrupt and hasty dismissal order was an attempt to frustrate the object of complaint and prevent respondent from seeking interim protection.

12. The Labour Court as well as Industrial Court have recorded elaborate reasons to grant interim relief in the nature of *status quo ante*. It is undisputed that respondent was in service on the date when complaint was instituted and notice was issued. It is only after service of notice of complaint and on the date of

appearance before Labour Court, the dismissal order is brought on record, which is apparently before expiry of seven days notice period.

13. In that view of matter, this Court finds no reason to interfere in the impugned order in exercise of writ jurisdiction under Article 227 of Constitution of India.

14. Hence, writ petition stands dismissed.

15. Rule is discharged.

(S.G. CHAPALGAONKAR, J.)