



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

933 WRIT PETITION NO. 9746 OF 2024

SHIVDARSHAN PRABAHAKAR RAUT

VERSUS

THE DIVISIONAL CONTROLLER MAHARASHTRA STATE ROAD
TRANSPORT CORPORATION

...

Mr. Vivekanand U. Jadhav, Advocate for the Petitioner.

Mr. Anilkumar B. Dhongade, Advocate for Respondent.

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CORAM : R. M. JOSHI, J.

DATE : 6th MAY, 2025

PC.:-

1. This petition takes exception to the orders passed by Labour Court, Latur in Complaint U.L.P. No.17 of 2010 dismissing the complaint and confirmation thereof by Industrial Court in Revision U.L.P. No.4 of 2020.

2. Facts which are relevant for decision of the case are narrated in brief as under:-

(i) Petitioner joined service of MSRTC as a 'Conductor' in the year 1994. It is his case that he was on his duty on the bus proceeding from Hyderabad to Shirdi. Admittedly, the flying squad of MSRTC had intercepted the bus at Osmanabad. It is found that one lady passenger was not issued with ticket, nor the fare amount was collected from her. It was further revealed that Petitioner was

holding deficit amount as against the issuance of ticket. It was also alleged the Petitioner that the previously used tickets were found in his custody for reissuance by defacing them. On these allegations, the chargesheet came to be issued against the Petitioner on 28th February 2025. During the pendency of the departmental enquiry, Petitioner came to be suspended from service. enquiry was conducted against the Petitioner. MSRTC led evidence to prove the misconducts of Petitioner. Since, Enquiry Officers held Petitioner to be guilty for the alleged misconduct, the punishment of dismissal was proposed against him. After hearing the Petitioner on the point of punishment, an order came to be passed on 24th July 2006 dismissing the Petitioner from the services of MSRTC.

- (ii) Being aggrieved by the said order of dismissal, Complaint U.L.P. No.17 of 2010 came to be filed before Labour Court, Latur. Labour Court framed preliminary issue in respect of fairness of the enquiry and it is held that the enquiry is fair and proper. Labour Court after considering the past record/conduct of the Petitioner dismissed complaint. Revision U.L.P. filed before the Industrial Court was unsuccessful, hence this petition is filed.

3. Learned Advocate for the Petitioner submits that though there were three allegations made against the Petitioner in the

chargesheet. The basic allegation was of non-issuance of ticket to a lady passenger. In this regard, learned Advocate brought to the attention of this Court, statement of the said lady passenger which according to him indicates that Petitioner was not at fault for non-issuance of the ticket. Similarly, reference is made to the statement of Petitioner himself recorded on 13th February 2005 in which, he states about issuance of ticket to the lady passenger subsequently. It is argued on behalf of the Petitioner that there was no allegation at the first instance against the Petitioner i.e. on 13th February 2005 about having been possession of the used tickets for re-issuance. It is his further submission that the short amount found with the Petitioner cannot be construed as misappropriation. In any case, it is his submission that there was no sufficient evidence placed on record by MSRTC in order to hold that the alleged misconduct against the Petitioner. To support this submission, reliance is placed on the judgment of this Court in ***Mahadeo Atmaramji Nage Vs. Maharashtra State Road Transport Corporation***¹.

4. Learned Advocate for the Respondent-MSRTC supported the impugned order. According to him, after issuance of chargesheet due enquiry was conducted against the Petitioner and evidence laid before the Enquiry Officer is sufficient to prove that the misconduct/charges

1 2009 (2) Bom. C.R. 824

levelled against the Petitioner. It is his submission that once proven and more particularly when the Petitioner does not dispute the fact that the used tickets being found in his possession. For any satisfactory explanation, according to him, the possession must be held to be for reissue of such tickets.

5. It is his submission that this is not for the first instance any action has been taken against the Petitioner. In this regard, reference is made to the observations made by the Labour Court in the order impugned wherein it is stated that the Petitioner has been punished 67 times. In response to this submission, learned Advocate for the Petitioner submits that out of 67 punishment, there are hardly 2 to 3 punishments which are related to non-issuance of ticket and other punishments are for miscellaneous issues like; late reporting, absentism, etc. Learned Advocate for Respondent-MSRTC pointed out that upon previously eight occasions, the action has been taken against the Petitioner for non-issuance of the tickets.

6. Insofar as the order of dismissal issued against the Petitioner is concerned, the same is preceded by issuance of show cause notice and chargesheet and conducting of departmental enquiry. It is not the case of the Petitioner that he was not given an opportunity of hearing and/or in his absence, the enquiry proceedings were conducted.

Perusal of the record indicates that during an enquiry, the Petitioner was represented by representative of his choice and the witnesses examined by the management/MSRTC were duly cross-examined. Thus, it cannot be said that the enquiry proceedings conducted against the Petitioner is non-compliance of principles of natural justice or against rules. Apart from this, there is no dispute about the fact that Petitioner was issued a show cause notice before the punishment of dismissal from service. Thus, the findings recorded by Labour Court with regard to the fairness of the enquiry are in consonance with the material evidence on record, as due procedure has been follow before issuing order of dismissal of petition.

7. The Labour Court has taken into consideration the evidence alleged against the Petitioner in the departmental enquiry. There was limited scope for the Court to get into the evidence and unless findings of enquiry are perverse on the face of it or leading to miscarriage of justice, labour court would not have been permitted to record different findings than the one drawn by Enquiry Officer. It is pertinent to note that though it is sought to be argued now on behalf of the Petitioner that on 13th February 2005, there was no other allegation except for the allegation of non-issuance of ticket to a lady passenger. In his statement before the Enquiry Officer, Petitioner never disputes the seizure of used tickets from his custody. This Court finds substance in

contention of the counsel for MSRTC that unless explained satisfactorily, possession of such used tickets by a conductor, it can be literally inferred that the same were possessed for re-issuance.

8. There is evidence on record to indicate that the ticket was not issued to the lady passenger. The explanation is sought to be given by the Petitioner is not acceptable for the reason that the Petitioner is working with MSRTC since 1994 and was not a new recruit in order to commit such mistakes. Finally, when the Labour Court has accepted the evidence laid before the enquiry officer to be sufficient to hold Petitioner guilty of the alleged misconduct charged against him and this finding is not perverse, in the exercise of writ jurisdiction, it is not open for this Court to reassess the evidence led before the Enquiry Officer and to record any contrary finding than the one drawn by Enquiry Officer is accepted by labour court.

9. Now question arises as to whether the statement of dismissal imposed against the Petitioner is shockingly disproportionate. This is not the first instance on which there is allegation made against the Petitioner of non-issuance of the tickets, previously on eight occasions, similar allegations are made against him. In the facts of the case, the punishment of dismissal imposed against the Petitioner does not shock the conscience of this Court. There could be no other justified

punishment for proven charge of misappropriation.

10. As a result of above discussion, there is no merit in the petition. Petition stands dismissed.

(R. M. JOSHI, J.)

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