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996-WP-5150-2021

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

996 WRIT PETITION NO. 5150 OF 2021

Syed Sartaj Syed Ahmed

VERSUS

The State Of Maharashtra And Others

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Mr. K. N. Shermale, Advocate for the Petitioner.

Mr. S. N. Kendre, AGP for Respondent-State.

Mr. Manoj Shinde, Advocate for Respondent No.3.

CORAM : KISHORE C. SANT &
ABASAHEB D. SHINDE, JJ.

DATE : 26th NOVEMBER 2025.

ORDER :-

1. Heard the learned Advocate for the parties.
2. Rule. Rule made returnable forthwith. With the consent of the parties, the petition is heard finally at the stage of admission.
3. By way of present writ petition, the petitioner has impugned the termination order dated 3rd March 2017, as he came to be terminated on account of disability. According to the learned Advocate for the

petitioner, the petitioner ought to have been either reinstated or given alternate work within a period of three months from the date of termination. However, the Respondent – MSRTC reinstated the petitioner by order dated 18th July 2018, and thereafter, the petitioner is entitled to back-wages for the said period from the date on which he came to be terminated and the date on which he came to be reinstated.

4. The learned Advocate for the petitioner has invited our attention to the order passed by the Hon'ble Apex Court in Civil Appeal No.3607-3620 of 2020 in the case of *the State of Maharashtra and Ors. Vs. Vikas and Anr. Etc.*, wherein the Hon'ble Apex Court has held that when the employee is terminated on account of disability, he is supposed to be reinstated within a period of three months from the date on which he was terminated.

5. In that view of the matter, the Hon'ble Apex Court, by setting aside the termination, directed that for the period taken for reinstating

the employee, the employee is entitled for back-wages, subject to the employee filing an undertaking/affidavit that the he was not gainfully employed somewhere else during the said period. He also invited our attention to various orders passed by this Court in a batch of writ petitions, including the Writ Petition No.3227 of 2021 and other writ petitions, as well as order passed in Writ Petition No.6939 of 2017 so also the order passed in Writ Petition No.9762 of 2019. He contends that this Court directed the Respondent - MSRTC to pay back-wages to the petitioners therein and that while granting back-wages, those petitioners were directed to file an affidavit stating that the petitioners were not gainfully employed, and if it is found that the petitioners therein was gainfully employed, the said amount shall be deducted from the back wages for which they are entitled.

6. We, therefore, follow the same course by directing the Respondent - MSRTC to pay the back-wages to the petitioner, and while calculating and actually paying the said back-wages, the Respondent - MSRTC may obtain an undertaking/affidavit from the petitioner to the effect that the

petitioner was not gainfully employed anywhere else. If it is found that the petitioner was gainfully employed, the amount shall be deducted from the back-wages for which he is entitled.

7. This exercise shall be carried out within a period of four weeks from today.

8. With these directions, writ petition stands disposed off.

9. Rule made absolute in above terms.

[ABASAHEB D. SHINDE, J.]

[KISHORE C. SANT, J.]

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