



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

909 WRIT PETITION NO. 10484 OF 2023

Divisional Traffic Officer, Maharashtra State Road Transport Corporation
and Anr.

VERSUS

Shivaji Pundlik Pophale

...

Mr. Anand Dnyanoba Wange, Advocate for the Petitioners.

Mr. A. S. Reddy Advocate for Respondent.

CORAM : KISHORE C. SANT, J.

DATE : 15th JANUARY 2025

PC :-

1. Heard the learned Advocate for the parties.
2. This Court by an order dated 23rd August 2023 had issued a notice for final disposal. This petition is taken up by consent of the parties for final disposal at the stage of admission.
3. The petitioners had challenged the order passed by the learned Member, Industrial Court, Latur dated 23rd November 2022 in Complaint (ULP) No.110 of 2015. The learned Industrial Court by way of impugned judgment and order, allowed the complaint filed by the Respondent,

who was working as a driver with Petitioner-Corporation. It is held and declared that the petitioners have indulged in unfair labour practices within the meaning of Item 9 of Schedule IV of MRTU and PULP Act, 1971 and were directed to cease and desist from the said act. Consequently, the punishment imposed upon by the respondents of reduction in basic pay by three stages with cumulative effect vide order dated 18th June 2015 is quashed and set aside. The petitioner-Corporation are further directed to make the payment of deducted amount to the respondents within two months.

4. The learned Advocate for the petitioners vehemently argued that in the complaint, the petitioner had filed an application raising preliminary issues. Thus, two issues were framed as below:-

Sr. No.	PRELIMINARY ISSUES	FINDINGS
01	Whether the complainant proves that departmental enquiry conducted against the complainant is not according to the principles of natural justice, legal, valid and proper?	Not proved.
02	Whether the complainant proves that the findings of the enquiry officer are perverse?	Proved.

5. While answering the preliminary issues, it is held that the complainant failed to prove that the departmental enquiry conducted against him is not according to the principles of natural justice, legal, valid and proper. So far as second issue is concerned, it was held to be proved. He submits that however, though the inquiry is held in fair manner and legal and valid, still the learned Member allowed the complaint setting aside the action taken on the basis of such report. In an enquiry, there was clear material against the respondents and in view of that by giving proper opportunity, the action was taken. During the enquiry, the respondents did not cross examine the witnesses. The conclusion is thus accepted by the respondents and still in the complaint, the Court has allowed the complaint. He prays for allowing the writ petition.

6. The learned Advocate for the Respondent vehemently argued that even taking an enquiry report as it is, no guilt of the respondent is proved. Even in the preliminary issues, the learned Member had held that when the accident took place, it was the fault of driver of the other vehicle. There was no fault of the respondent. None of the witnesses

examined in the enquiry have stated anything against the respondent. Still the conclusion was drawn against him by the inquiry officer and the authorities, he thus supports the order passed by the learned Member and prays for dismissal of the writ petition.

7. Considering the evidence as appearing from the record, it is seen that the learned Member while answering the preliminary issues that the petitioner No.1 has also made an endorsement that the respondent was not at fault and still this action is taken. It is submitted by the learned Advocate for the petitioners that though while answering the preliminary issues, it was held that enquiry was fair and proper till contrary finding is recorded in the complaint by the learned Member. This Court finds that even taking the enquiry as it is, it clearly shows that there was no fault of the respondent and it was endorsed by the Divisional Traffic Officer-Petitioner No.1.

8. Considering all above factors, this Court does not find any perversity or illegality in the reasons and the findings recorded by the learned Member, Industrial Court, Latur. Consequently, there is no merit in the writ petition and writ petition stands dismissed. No order as to

costs.

9. The petitioners are expected to act upon the impugned judgment and order within a period of six weeks from today.

[KISHORE C. SANT, J.]