



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION No.2064 OF 2023

Maharashtra State Road Transport Corporation Through Its Divisional
Controller

VERSUS

Balika Shankar Bansode

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Advocate for the Petitioner : Mr. Bagul D.S.

Advocate for Respondent : Mr. Mali Dayanand S.

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CORAM : S. G. CHAPALGAONKAR, J.

DATED : JUNE 11, 2025

PER COURT :-

1. The petitioner/MSRTC impugns the judgment and order dated 22.06.2022 passed by Industrial Court, Latur in Complaint (ULP) No.58 of 2021 by which learned Industrial Court directed petitioner MSRTC to grant promotional benefit to petitioner with retrospective effect from March 2021 and release consequential financial benefit.

2. The respondent/employee is working under establishment of MSRTC as conductor. As per Circular dated 18.01.2021, the applications were invited for departmental promotion as clerk/typist. Name of the respondent appeared at serial No.14 in provisional list. However later on, her name came to be deleted from final seniority list published on 24.03.2021. On enquiry, respondent was informed that since she has been subjected to departmental enquiry and proceeding in that relation is pending before Industrial

Court, her name is deleted from seniority list of candidates in zone of consideration.

3. According to respondent, she has been victimized and deprived from her right of promotion. She alleged that petitioner/employer indulged into unfair labour practice.

4. The petitioner/MSRTC refuted the claim of respondent/employee relying upon Circular No.28 of 2019 dated 28.06.2019. According to them, if the employee was found involved in serious offences or guilty of misconduct, his/her claim cannot be considered for promotion. The respondent/employee has been subjected to departmental enquiry and held guilty. However, proceeding is halted before Industrial Court, Latur at the stage of final notice of dismissal issued to respondent. Therefore, her name is rightly declined from consideration.

5. The Industrial Court after considering rival contentions and evidence on record observed that the respondent/employee was served with charge sheet No.397 of 2013. She has been held guilty and recommended for dismissal from service. However, Notice of dismissal is challenged by her in Complaint (ULP) No.50 of 2013 before Industrial Court, Latur. The operation of said Notice has been stayed. The order granting stay is still in subsistence and has Not challenged before higher Court. In this circumstances, Circular No.28

of 2019 would Not apply in the facts of the case. As such at this stage, the conclusion cannot be drawn that employee was guilty and liable to be discarded from consideration for promotion. Accordingly, allowed the complaint holding that removal of respondent's name from seniority list dated 24.03.2021 amounts to unfair labour practices, eventually issued further directions to grant promotion to respondent w.e.f. March 2021 along with consequential benefits.

6. Mr. Bagul, learned advocate appearing for petitioner/MSRTC vehemently submits that the Industrial Court failed to appreciate the object and scope of Circular dated 28.06.2019 and adopted erroneous interpretation of clauses therein. According to him, the employee who is found involved in serious offences or misdemeanor is liable to be discarded from zone of consideration for promotion. He would submit that the respondent/employee was served with charge sheet, Enquiry Officer found her guilty of misconduct. Therefore, she was served with Notice for dismissal from service. Same has been challenged before Industrial Court. Therefore, in light of finding recorded by Enquiry Officer, her name was rightly removed from list of candidates, who were under zone of consideration.

7. Per contra, Mr. D.S. Mali, learned advocate appearing for respondent would submit that Notice for dismissal is already stayed

by Industrial Court and same is subjudiced. In this background, the Industrial Court has rightly allowed the complaint and issued directions to grant promotion to petitioner as per her seniority.

8. Having considered the submissions advanced, the mute question that arises for consideration in this writ petition is as to interpretation of relevant clauses stipulated in Circular No.28 of 2019 dated 28.06.2019, which provides for promotion of employees on the post of drivers, conductors, assistants, peons etc. Clause No.4 of the circular states as under :

Marathi Version :

"४) सरळसेवा भरतीसाठी असलेली लिपिक-टंकलेखक संवर्गाची विहित शैक्षणिक अर्हता धारण करणारे (म्हणजेच पदवीधर, टंकलेखन मराठी ३० श.प्र.मि व इंग्रजी ४० श.प्र.मि. तसेच संगणक एम.एस.सी.आय.टी उत्तीर्ण असलेले, ३ वर्षांची नियमित सेवा पूर्ण करणा-या समयवेतन श्रेणीवरील चालक, वाहक, सहायक तसेच शिपाई व तत्सम संवर्गातील कर्मचा-यांची पदोन्नती प्रकरणे ते सर्व अटी व शर्तीची पूर्तता करीत असल्यास (लगतच्या ३ वर्षांत प्रत्येक वर्षी २४० दिवस उपस्थिती, अपराध प्रकरणे व गंभीर गुन्ह्यात दोषी नसावा) पात्र ठरवून विभागीय पदोन्नती समितीसमोर प्रकरणे सादर करण्यात यावीत."

English Version :

"4) Promotion cases of employees in the time scale of pay category, drivers, conductors, assistants, as well as peons and similar cadres who have completed 3 years of regular service and are eligible for recruitment of clerical typists (i.e. graduates, with Marathi Typing speed 30 w. p. m. (words per minute) and English typing speed 40 w.p.m. (words per minute), as well as computer M.S.C.I.T. course passed, if they fulfill all the terms and conditions (240 days of attendance every year in the last 3 years,

should not be convicted of criminal cases and serious crimes) should be submitted before the Divisional Promotion Committee.”

9. It is not in dispute that the petitioner was compliant of eligibility criteria for promotion and therefore her name was shown in provisional seniority list dated 18.01.2021 at serial no.14. However later on, her name could not find place in final seniority list dated 24.03.2021. Although respondent/employee has been subjected to departmental enquiry and on recommendation of enquiry officer, show cause notice for dismissal from service has been issued to her, fact remains that such notice is stayed by Industrial Court. Till this date, stay order is in subsistence. In that eventuality, the respondent/employee cannot be treated as convicted in serious offence or guilty of misconduct. In this background, she is definitely eligible for benefit of promotion being compliant with requirements under Circular No.28 of 2019. Needless to state here that her promotion shall be subject to final outcome of Complaint (ULP) No.50 of 2013 pending before Industrial Court filed against show cause notice of dismissal issued in pursuance to departmental enquiry in Disciplinary Proceeding No.397 of 2013. In that view of matter, no fault can be found in impugned order. There is no merit in writ petition and same is dismissed.

(S.G. CHAPALGAONKAR, J.)