

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3646 OF 2025

Rajendra Raghunath Dhobale

...Petitioner

V/s.

The Divisional Controller,
Maharashtra State Road Transport
Corporation, Satara Division,
Satara.

...Respondent

Mr. Ranjit Shinde with *Ms. Bhavika Shinde and Mr. Vikrant Shinde for the Petitioner.*

Ms. Sulbha D. Chipade, *AGP for Respondent-State.*

CORAM : SANDEEP V. MARNE, J.

Dated : 11 March 2025.

P.C. :

1) Petition challenges judgment and order dated 14 February 2025 passed by the Member, Industrial Court, Satara, allowing the revision application preferred by the Respondent - State Transport Undertaking and setting aside the order dated 11 July 2019 passed by the Judge, Labour Court, Satara.

2) The Labour Court had allowed the application at Exhibit U-2 and had granted interim relief of restraining the Respondent from dismissing the Petitioner from service on the basis of the

charge-sheet and show cause notice during pendency of the main complaint. The Industrial Court has relied upon judgment of this Court in ***Dagadu Vasant Mudgal V/s. MSRTC***¹ decided on 3 September 2024. In that judgment, I have taken a view that complaints cannot be entertained by restraining the employer from taking disciplinary proceedings to its logical end. In the present case as well Petitioner is served with mere show cause notice proposing to impose the penalty of dismissal from service. The charge-sheet served on the Petitioner relates to incident dated 13 May 2016. Disciplinary enquiry has been conducted in which the charges levelled against the Petitioner are held to be proved. The show cause notice was issued on 19 October 2016 proposing to impose penalty of dismissal from service on him. On account of erroneous order passed by the Labour Court, Petitioner still continues to be in service and the employer is prevented from taking disciplinary proceedings to its logical end for the last 9 long years. This approach on the part of the industrial adjudicators in stalling disciplinary proceedings by passing interim orders restraining the employer from concluding the disciplinary proceedings has been adversely commented upon by this Court in ***Dagadu Vasant Mudgal*** (supra).

3) In the present case as well, the Petitioner has successfully stalled the disciplinary proceedings for the last 9 long years and the employer is prevented from punishing him though the charges are held to be proved.

¹ Writ Petition No.12210 of 2024, decided on 3 September 2024.

4) Mr. Shinde the learned counsel appearing for the Petitioner would submit that the charge is not of grave nature and that the past service record of the Petitioner is unblemished.

5) In my view, this aspect can be highlighted by the Petitioner while replying the show cause notice. Mere service of show cause notice proposing to impose punishment of dismissal from service would not necessarily mean the appointing authority is bound to impose the proposed penalty. If the employee points out the mitigating factor in the reply to the show cause notice, appointing authority is bound to take note of the same while selecting appropriate penalty to be imposed on the delinquent employee. In the present case as well, if there are any mitigating factors in favour of the Petitioner, the same are bound to be taken note by the appointing authority while deciding the ultimate penalty to be imposed on the Petitioner. For that purpose Petitioner needs to respond to the show cause notice dated 19 October 2016 and raise all points in his favour in such reply. However, his employer cannot be prevented by the Lower Court and the Industrial Court from taking disciplinary proceedings to their logical end by entertaining complaints of unfair labour practices. If such complaints are entertained, there will be twin adjudications viz., one on such mere issuance of show cause notice and second factor the final penalty is imposed.

6) I therefore, do not find any valid reason to interfere in the impugned order passed by the Industrial Court. Petition is accordingly **rejected**.

7) Petitioner would be at liberty to file reply to the show cause notice within a period of three weeks. Needless to state that nothing observed in the present order shall come in the way of decision of any fresh complaint filed by the Petitioner in the event of any adverse penalty order being imposed on him.

[SANDEEP V. MARNE, J.]