

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.8290 OF 2024

Maharashtra State of Road
Transport Corporation
V/S
Kalyan Haribhau Kshirsagar

....Petitioner

....Respondent

Mr. Nitesh V. Bhutekar with Mr. Prathamesh Mandlik and
Mr. Animesh Bayas *for the Petitioner-MSRTC.*
Mr. Meelan Topkar with ms. Pavitra Manesh and Ms.
Bhargavi Patil *for Respondent-employee.*

CORAM: SANDEEP V. MARNE, J.
DATE : 27 FEBRUARY 2025.

P.C.:

1. By this Petition Petitioner-Maharashtra State Road Transport Corporation (**MSRTC**) has challenged order dated 13 June 2023 passed by Industrial Court, Kolhapur, rejecting the application for amendment of Written Statement.

2. I have heard Mr. Bhutekar, the learned counsel appearing for the Petitioner-MSRTC and Mr. Topkar, the learned counsel appearing for the Respondent-employee.

3. It is the case of the Petitioner-MSRTC that after his relief from service on 5 January 2015 the Respondent/Complainant

collected all the due amounts of retirement benefits towards Provident Fund, Gratuity, etc. The employee also obtained sanction for payment of pension. After receipt of the entire retirement benefits, he turned around and filed Complaint of unfair labour practices challenging the order by which he was relieved from service. According to the Petitioner-MSRTC, there is gross suppression of facts on the part of the Respondent/Employee which necessitated amendment in the Written Statement. No doubt, the Application was moved after considerable delay. The Petitioner-MSRTC was initially denied opportunity of filing Written Statement and by allowing the application made by it, the Industrial Court has finally permitted Petitioner-MSRTC to file Written Statement upon payment of costs. The Written Statement came to be taken on record on 28 February 2022. The evidence thereafter commenced and it is only when the time of Petitioner-MSRTC arrived for filing of its evidence, that an amendment application was moved to bring on record the events of receipt of all pensionary benefits by the Respondent-Complainant. The application is rejected by the Labour Court observing that filing of the application amounted to delay tactics.

4. In my view, the act of Respondent-Complainant accepting all the terminal benefits after passing of order of his relieving may be a vital factor while deciding the issues involved in the Complaint. No doubt Petitioner-MSRTC has been extremely

casual in not incorporating the plea in that regard in the original Written Statement. However at the same time since the issue of payment of all terminal benefits may be relevant for the purpose of determining the real question of controversy between the parties, it is appropriate that the Petitioner-MSRTC is permitted to amend the Written Statement. The only issue is about undue delay on the part of the Petitioner-MSRTC in moving the application for amendment and not showing due diligence in applying for amendment. This can be taken care of by imposition of costs on the Petitioner-MSRTC.

5. The Petition accordingly succeeds. The order dated 13 June 2023 passed by the Industrial Court, Kolhapur is set aside.

6. Petitioner-MSRTC's application at Exhibit C-13 for amendment of the Written Statement is allowed.

7. I am informed that the Industrial Court has already denied opportunity to the Petitioner-MSRTC for leading evidence. Petitioner-MSRTC would be at liberty to file its Affidavit-of-Evidence within a period of four weeks from today. This will shorten any further litigation between the parties. Considering its casual approach Petitioner-MSRTC in defending the Complaint, it shall pay to the Respondent-Employee, costs of Rs.20,000/- within a period of four weeks. Payment of costs

within the stipulated time shall be condition precedent for incorporation of amendment as well as leading of evidence.

8. With the above directions, the Petition is allowed and **disposed of.**

Digitally
signed by
SUDARSHAN
RAJALINGAM
KATKAM
Date:
2025.03.03
13:28:24
+0530

(SANDEEP V. MARNE, J.)