



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 2827 OF 2019

PETITIONERS

Maharashtra State Road Transport Corporation, through its Divisional Controller, Amravati Division, Amravati.

...VERSUS...

RESPONDENT

Shetan Ratanji Khanande,
Aged 62 Years, Occu. Nil
R/o. Jevad Naar, Amravati,
Tq. and Dist. Amaravati.

Mr. Ashish S. Mehadia, Advocate for Petitioner.
Mr. N. R. Saboo, Advocate for Respondent.

CORAM : SIDDHESHWAR S. THOMBRE, J.
DATE : 04/11/2025

ORAL JUDGMENT :

1. Heard. **Rule.** Rule made returnable forthwith. The petition is heard finally with the consent of the learned Counsel for the respective parties at the stage of admission.
2. The present petition is directed against the order dated 28.01.2019 passed by the learned Industrial Court, Amravati in Complaint (ULP) No. 19/2011 whereby the learned Member Industrial Court allowed the complaint filed by the respondent herein and directed

2

the petitioner corporation to pay salary to the complainant i.e. present respondent for the period from 16.02.2000 to 02.05.2002 within two months from the date of passing of the order.

3. The petitioner corporation assails the order passed by the learned Industrial Court on the ground that the respondent was terminated from service with effect from 01.03.1999. The said order was challenged by the respondent by filing complaint (ULP) No. 69/1999. The learned Labour Court vide its order dated 16.02.2000 partly allowed the complaint and directed the petitioner to reinstate the complainant at his former post with continuity of service, but without back wages. The said order was challenged by the petitioner corporation by filing Revision Case no. 40/2000. The respondent herein was reinstated in service on 02.05.2002.

4. The learned Industrial Court granted stay to the operation of the Judgment and order passed by the learned Labour Court on 16.02.2000 until further order. The stay order continued till 20.04.2002. Thereafter, the present respondent/complainant was reinstated in service on 02.05.2002.

There is no dispute about the above mentioned facts and those are admitted by both the parties.

After reinstatement, the present respondent filed Complaint (ULP) No. 19/2011 before the learned Industrial Court with a prayer to direct the petitioner corporation to pay salary for the period from 16.02.2000 to 02.05.2002 which comes to Rs. 2,43,000/-. The said complaint was opposed by the petitioner corporation on the ground that there was a stay in operation, thus no question of paying the salary arises because during that period petitioner had never worked.

After hearing the parties learned Industrial Court vide its order dated 20.02.2019 allowed the complaint and directed the petitioner to pay salary for the period from 16.02.2000 to 02.05.2002 within two months, aggrieved by which, the present petition is filed.

5. Learned counsel for the petitioner, Mr. Ashish S. Mehadia vehemently submits that the learned Labour Court has granted reinstatement without back wages. The said order was assailed by the petitioner corporation by filing Revision Case No. 40/2000 in which an interim stay was granted by the learned Industrial Court which was continued till 20.04.2002. During that period the respondent had never worked and therefore, question of paying salary does not arise. In support of his contention he relied upon the law laid down by the Hon'ble Apex Court in the matter of Burn Standard Co. Ltd. and Anr. Vs.

Tarun Kumar Chakraborty and others reported in (2002) 10 SCC 585 and he invited my attention to the paragraph 8 of the said judgment which is reproduced as follows-

“8. The said period can conveniently be divided into two spans, first commencing from 22-10-1984 to 12-10-1988 when the writ proceedings initiated by the Association terminated on being withdrawn and second from 12-10-1988 till 15-5-1997 when the first respondent was permitted to join the service. Evidently during the second period the appellant had no justification much less any impediment in law to permit the first respondent to join the service. Having regard to the circumstances indicated above, we are inclined to take the view that the appellant had reasonable ground to believe that the first respondent could not be permitted to join the service during the period first mentioned in view of the pendency of the writ petitions filed by the Association against them and in view of various interim orders passed by the courts and were supported in that view by legal advice. But for the period commencing from 12-10-1988 till 15-5-1997 there is absolutely no reason why the first respondent was not permitted to join the service. For this period, the first respondent is entitled to receive his full salary with usual allowances admissible to the post of Deputy Manager, Accounts (Project) and if the salary for the said post has been revised during that period, he will be entitled to the same and also to all consequential benefits permissible for the said period.”

On this ground he urged to allow the writ petition by setting aside the order passed by the learned Industrial Court.

6. Per contra, learned counsel for the respondent submits that the Labour Court allowed the complaint without back wages but for the

period of stay, the petitioner was entitled to receive the salary. In support of his contention he relied upon judgment of Maharashtra State Road Transport Corporation Vs Shri Motiram S/o Ramaji Bhagwatkar and Anr. reported in 2000 (3) ALL MR 100 and submitted that the order passed by the learned Industrial Court is legal and proper and prayed to dismiss the writ petition.

He also referred the judgment of Hon'ble Apex Court in the matter of M/s. Shree Chamundi Mopeds Ltd. Vs. Church of South India Trust Association, Madras reported in AIR 1992 SC 1439 and invited my attention to the findings recorded by the Hon'ble Apex Court in paragraph 10, which is reproduced as under :-

“10. In the instant case, the proceedings before the Board under Sections 15 and 16 of the Act had been terminated by order of the Board dated April 26, 1990 whereby the Board, upon consideration of the facts and material before it, found that the appellant-company had become economically and commercially non-viable due to its huge accumulated losses and liabilities and should be wound up. The appeal filed by the appellant-company u/s 25 of the Act against said order of the Board was dismissed by the Appellate Authority by order dated January 7, 1991. As a result of these orders, no proceedings under the Act was pending either before the Board or before the Appellate Authority on February 21, 1991 when the Delhi High Court passed the interim order staying the operation of the Appellate Authority dated January 7, 1991. The said stay order of the High Court cannot have the effect of reviving the proceedings which had been disposed of by the Appellate Authority by its order dated January 7, 1991. While considering the effect of an interim order staying the

operation of the order under-challenge, a distinction has to be made between quashing of an order and stay of operation of an order. Quashing of an order results in the restoration of the position as it stood on the date of the passing of the order which has been quashed. The stay of operation of an order does not, however, lead to such a result. It only means that the order which has been stayed would not be operative from the date of the passing of the stay order and it does not mean that the said order has been wiped out from existence. This means that if an order passed by the Appellate Authority is quashed and the matter is remanded, the result would be that the appeal which had been disposed of by the said order of the Appellate Authority would be restored and it can be said to be pending before the Appellate Authority after the quashing of the order of the Appellate Authority. The same cannot be said with regard to an order staying the operation of the order of the Appellate Authority because in spite of the said order, the order of the Appellate Authority continues to exist in law and so long as it exists, it cannot be said that the appeal which has been disposed of by the said order has not been disposed of and is still pending. We are, therefore, of the opinion that the passing of the interim order dated February 21, 1991 by the Delhi High Court staying the operation of the order of the Appellate Authority dated January 7, 1991 does not have the effect of reviving the appeal which had been dismissed by the Appellate authority by its order dated January 7, 1991 and it cannot be said that after February 21, 1991, the said appeal stood revived and was pending before the Appellate Authority. In that view of the matter, it cannot be said that any proceedings under the Act were pending before the Board or the Appellate Authority on the date of the passing of the order dated August 14, 1991 by the learned Single Judge of the Karnataka High Court for winding up of the company or on November 6, 1991 when the Division Bench passed the order dismissing O.S.A.No. 16 of 1991 filed by the appellant company against the order of the learned Single Judge dated August 14, 1991. Section 22(1) of the Act could not, therefore, be invoked and there was no impediment in the High Court dealing with the winding up petition filed by the respondents. This

is the only question that has been canvassed in Civil Appeal No. 126 of 1992, directed against the order for winding up of the appellant company. The said appeal, therefore, fails and is liable to be dismissed.”

He submitted that as there was a stay in operation and the petitioner was entitled to receive the salary for the period from 16.02.2000 to 02.05.2002. He further submitted that the judgment relied upon by the petitioner is in respect of appointment and that is not applicable to the present case. He further submitted that in fact the judgment which was cited and considered by the learned Industrial Court reported in 2000(3) ALL MR 100 is squarely applicable to the present case and prayed to dismiss the petition.

7. I have gone through the contentions raised by both the parties and the judgment of the Hon'ble Apex Court. It is a fact that in Complaint ULP No. 19/2011 the learned Labour Court allowed the complaint partly and directed to reinstate the respondent with continuity in service but without back wages. The same was assailed by the petitioner corporation by filing complaint (ULP) No. 69/1999 and an interim stay was granted on 16.02.2000, which was vacated on 20.04.2000. After hearing the parties the revision came to be dismissed and therefore only because there was an interim order of stay granted to the judgment of Labour Court does not mean that the respondent was

not entitled to get the salary for the said period. As far as judgment relied upon by the petitioner in the matter of Rajpal Vs. State of Haryana And Another reported in (2002) 10 SCC 585 is concerned the facts of that case are totally different. The facts involved in that case pertain to the appointment rather than payment of wages/salary for the period of stay.

Industrial Court rightly observed that in the present case the learned Labour Court had directed reinstatement without back wages and therefore, the effect of reinstatement has to be given from the date of termination. Therefore, for the period during which stay was operational, certainly, the respondent/employee is entitled to receive the salary. Considering the above mentioned facts, I am not inclined to interfere with the order dated 28.01.2019 passed by learned Industrial Court, Amravati in Complaint (ULP) No. 19/2011 under Article 227 of the Constitution of India.

ORDER

1. Writ Petition is dismissed.
2. While passing the interim order, this Court had directed the petitioner corporation to deposit 50% of the amount and in pursuant to that, the amount has already been

deposited. In view of the dismissal of the present writ petition, the respondent is entitled to receive the deposited amount with interest accrued thereon.

3. Accordingly, the respondent is permitted to withdraw the deposited amount along with interest accrued thereon.
4. No order as to costs.
5. Rule is hereby **discharged**.

(SIDDHESHWAR S. THOMBRE, J.)