



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

Writ Petition No.6986 of 2024

The Divisional Collector, Maharashtra State Road Transport Corporation, Akola
vs.

Shri Ajabrao Vishram Tayade

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Mr. P.S. Gawai, Advocate for the Petitioner.

Mr. P.U. Kavishwar, Advocate for the Respondent.

CORAM : R.M. JOSHI, J.

DATE : 1st JULY, 2025.

This petition takes an exception to the judgment and order passed by the Industrial Court, Akola in Complaint (ULP) No.104/2016 thereby the complaint filed under the provisions of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (*hereinafter referred to as "Act" for short*) came to be allowed in favour of the complainant-employee. By this order, the respondent was directed to refund a sum of Rs.87,449/- to the complainant along with interest at the rate of 10% per annum.

02. There is no dispute about the fact that the respondent was an employee of the M.S.R.T.C. He worked as a Conductor w.e.f. 01/07/1980 and was superannuated on 30/06/2015. On 20/09/2016, he received a letter from the petitioner stating that an amount of Rs.87,449/- has been recovered from the amount payable to him towards leave encashment and gratuity. The action of the petitioner came to be challenged by filing complaint under the provisions of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971. The Industrial Court recorded the findings that the principles of natural justice are not followed before taking the said decision of recovery of the amount.

03. The learned Counsel for the petitioner submits that before actual recovery of the amount, notice was given to the respondent on 30/06/2015. It is his contention that on the date of superannuation, this notice was issued as such it cannot be said that the recovery is sought to be done after the retirement of the respondent. It is his submission that as the recovery is made subsequently, this was a sufficient notice for the respondent.

04. The learned Counsel for the respondent supported the impugned judgment and order by contending that notice of change as contemplated by Section 9A of the Industrial Disputes Act, 1947 has not been issued before adversely affecting the conditions of service of the respondent. It is his submission that the communication dated 30/06/2015 cannot be considered as 'show cause notice' as it is an intimation of the decision already taken by the petitioner.

05. The facts, as appeared from the record, clearly indicate that there was no 'show cause notice' issued to the respondent before deducting the amount due and payable to him. Since, the service conditions of the respondent are adversely affected, the notice under Section 9A of the Industrial Disputes Act was mandatory to have been given. The Industrial Court has rightly taken into consideration the said fact and has held that the act of recovery of the amount by the petitioner from the dues payable to the respondent is in contravention with the principles of natural justice.

06. In the facts of the case, no interference is called for in the order impugned. The petition stands dismissed with no order as to costs.

(R.M. Joshi, J.)