



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

WRIT PETITION NO. 1667 OF 2025

Divisional Controller, Maharashtra State Road
Corporation, Gadchiroli, Tah. & Dist. Gadchiroli.

PETITIONER

VERSUS

Dharamdas Vishwanath Lakde, Aged about 43 years,
Occ. Conductor, R/o Rajoli, Tah. Mul, Dist. Chandrapur.

RESPONDENT

Shri R.S. Charpe, counsel for the petitioner.
Shri Tejas Deshpande, counsel for the respondent.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : DECEMBER 04, 2025

ORAL JUDGMENT

RULE. Rule is made returnable forthwith and heard finally with consent of the learned counsel for the parties.

2. The petitioner-Divisional Controller, Maharashtra State Road Transport Corporation, Gadchiroli (for short, 'the petitioner-MSRTC') has assailed the judgment and order dated 14.02.2019 passed by the Labour Court, Chandrapur as well as the judgment and order dated 03.05.2024 passed by the Industrial Court, Chandrapur. The Labour Court had quashed the dismissal order of the respondent-Employee which is upheld by the Industrial Court and the same is subjected to challenge by way of instant petition.

3. The respondent is original complainant who had filed Complaint U.L.P. No.97 of 2016 before the Labour Court challenging his dismissal order dated 12.08.2016 by primarily contending that the impugned order of dismissal was without conducting any departmental enquiry and was

thus unsustainable. It was the case of the complainant that he was appointed on 18.03.2014 on the post of Conductor after following regular recruitment process. He submitted that at the time of appointment, the petitioner had submitted all the necessary documents including the non-creamy layer certificate which were duly verified by the employer. It is the case of the employee that after appointment, he has rendered his services and without conducting any departmental enquiry, he was dismissed from service by order dated 12.08.2016 only on the pretext of failure to submit the non-creamy layer certificate. Although the employer was served with the notice of the complaint case before the labour Court, no written statement was filed on its behalf and the complaint proceeded. The complainant led evidence which remained unchallenged and the complaint was allowed by the judgment and order dated 14.02.2019 directing reinstatement of the employee with full back wages from the date of dismissal of services i.e. 12.08.2016 till the date of his actual reinstatement. The petitioner-MSRTC challenged the judgment vide revision under Section 44 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (for short, 'the Act of 1971') before the Industrial Court, Chandrapur which came to be dismissed by order dated 03.05.2024.

4. The primary contention of the counsel for the petitioner-MSRTC is, the respondent is discharged from service for failure to submit non-creamy layer certificate despite the fact that his appointment was against the reserved category. By relying upon the General Standing Order 503 of the

Corporation, particularly Clause 26 and Condition no.9A of the advertisement, he submitted that on failure of the employee to submit true information for securing appointment, the discharge of the employee is justified. The counsel for the petitioner placed reliance on the judgment of the Hon'ble Supreme Court in *R. Vishwanatha Pillai with Vimal Ghosh V Versus State of Kerala* [(2004) 2 SCC 105] and submitted that an employee deserves to be terminated for supplying false documents. The counsel for the petitioner has also relied on the judgment of the Hon'ble Supreme Court in *Deepali Gundu Surwase Versus Kranti Junior Adhyapak Mahavidyalaya (D.Ed.) & Others* [(2013) 10 SCC 324] to contend that in absence of any evidence about employee being not gainfully employed, the claim for full back wages is unsustainable.

5. As against this, the learned counsel for the respondent-Employee submitted that the employee had submitted the non-creamy layer certificate at the time of his appointment and the documents were verified by the employer at the relevant time. He submitted that the employee has rendered his service and has even completed the probation successfully and the order of dismissal without conducting any departmental enquiry is thus absolutely arbitrary and illegal. He justified the orders passed by the Labour Court as well as the Industrial Court and strongly opposed the petition. Amongst other contentions, the counsel for the respondent invited attention to the order dated 12.08.2015 issued by the petitioner-MSRTC about absorption of the daily wage employees including the respondent and submitted that the dismissal on account of failure to submit document

is arbitrary and illegal. The counsel for respondent has relied on the judgment in *State of Uttarakhand & Others Versus Sureshwati* [(2021) 3 SCC 108] and submitted that on failure of the employer to conduct departmental enquiry before dismissal or discharge, the order of termination is not sustainable.

6. While considering the rival contentions of the parties, it has to be seen that the employee was appointed by following a regular recruitment process. Pertinent to note, the order dated 12.08.2015 issued by the petitioner-MSRTC about absorption of employees including the respondent shows that the employee was appointed on probation for a period of twelve months. The respondent has thus completed the probation and was rendering his service. Although the petitioner-MSRTC has contended that the employee was discharged and not terminated, it has to be noted that the letter dated 12.08.2016 is about termination of service and further that the employer has not at all filed any written statement before the Labour Court refuting the contentions of the complainant and has neither led any evidence. As such, the case put up by the employee before the Labour Court based on the documents about his absorption and submissions about verification of the documents remain uncontroverted. Undisputedly, no departmental enquiry was conducted against the respondent before dismissing him. As such, the findings rendered by the Labour Court about illegality of the termination order are based on the record available before it and do not appear to be perverse. However, as regards the claim for backwages from 12.08.2016,

it has to be seen that there are no pleadings in the complaint that the employee was not gainfully employed after termination and it is a fact that the respondent has not rendered his actual services and thus his entitlement to claim full backwages for the period from 12.08.2016 will be burdensome for the employer. As such, to the extent of granting full backwages, the impugned order needs to be modified.

7. The contentions canvassed by the counsel for the petitioner-MSRTC that the employee has violated Clause 26 of the General Standing Order 503 only on account of failure to submit non-creamy layer certificate cannot be accepted. It has to be noted that Clause 26 provides that an employee who deliberately provides any false information for the purpose of securing employment stands disqualified for his post. However, in the instant case, the petitioner-MSRTC has failed to demonstrate that the respondent has submitted any false information or has suppressed any information for securing employment. On the contrary, it appears that the employee has submitted his non-creamy layer certificate at the time of his appointment and no grievance was raised by the petitioner-MSRTC for a period of more than two years. Apart from this, the petitioner-MSRTC has not filed any written statement or led any evidence in support of its contentions and as such the same are not at all acceptable. Pertinently, the judgment relied upon by the counsel for the petitioner in ***R.Vishwanatha Pillai with Vimal Ghosh V*** (supra) deals with the invalidation of the caste claim of the employee concerned and the same is not of any assistance to the petitioner. The position of law as laid down in

the judgment of the Hon'ble Supreme Court in *Deepali Gundu Surwase* (supra) is not disputed and the same has been given due consideration.

8. Having regard to the above mentioned factual and legal aspects, the following order is passed.

- I. The writ petition is partly allowed.
- II. The impugned orders dated 14.02.2019 and 03.05.2024 passed by the Labour Court and the Industrial Court respectively to the extent of granting full backwages to the respondent from the date of his dismissal i.e. from 12.08.2016 till the date of his actual reinstatement is quashed and set aside.
- III. The impugned orders directing reinstatement of the respondent with continuity of service needs no interference. The petitioner-MSRTC is directed to reinstate the respondent at the earliest.

9. Rule is made absolute in aforesaid terms with no order as to costs.

(PRAFULLA S. KHUBALKAR, J.)