

Judgment

: 1/ 11 :

Complaint(ULP)No.13/2020

MHIC040000162020



Filed on : 08-01-2020

Registered on : 08-01-2020

Decided on : 06-03-2026

Duration : 06 01 29
Y M D

IN THE INDUSTRIAL COURT, MAHARASHTRA, AT THANE.

COMPLAINT(ULP)NO. 13 OF 2020

Shri. Ravindra Budha Landge

Age : 53 Years

Ashtvinayak Colony, Thankar Pada,

Chawl No.6, Room No.10,

Kalyan, Dist. - Thane.

- **Complainant**

- **V e r s u s** -

1. **Divisional Controller,**

M.S.R.T. Corporation,

Palghar Division, Near Railway Station,

Palghar(E), District - Palghar.

2. **M.S.R.T. Corporation,**

Through Divisional Controller,

M.S.R.T. Corporation, Palghar Division,

Near Railway Station, Palghar(E),

District - Palghar.

- **Respondents**

**In the matter of complaint under Section 28,
R/W. Items 3, 5, 9 and 10 of Schedule IV of the
MRTU & PULP Act, 1971.**

Coram

: Mrs. Amruta A. Patil, Member, Industrial Court.

Appearances

: Shri. U.S. Jagdale, Ld. Advocate for complainant.

Smt. Smita Danke, Ld. Advocate for respondents.

- : J U D G M E N T : -

(Delivered on 6th March, 2026)

1. The present complaint is filed under Section 28 R/W Items 3, 5, 9 and 10 of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (for short “the MRTU & PULP Act, 1971”) against the respondents.

2. It is submitted that, the complainant was recruited as Driver in the year 1999 and since then he is working at Vasai Depot. His past service record is very clean and good. His last drawn wages are Rs.26,017/- as basic wages per month. He was later promoted as a Vehicle Examiner from 24.08.2016. Since then he is working at Vasai Depot. The Divisional Controller is the administrative head of the Palghar Division. The said authority is also appointing authority of the complainant. He has issued the order of transfer dated 26.12.2019. By the said order the complainant is transferred to ST. Palghar Divisional Workshop at Palghar. The Corporation has many regions, divisions and depots. The Palghar Division is one of them located at Palghar District. The respondent Corporation being the transport undertaking various labour laws are applicable to them. The Corporation has its own Service Regulations known as MSRTC Employees Service Regulations. As per Clause 80 of the said Regulation the Corporation has framed one Discipline and Appeal Procedure of the Corporation,

which is applicable to all their employees. The Corporation cannot transfer any employee by way of punishment.

3. The complainant is transferred only because he is a member of ST Kamgar Sanghatana and also taking active part in Union activities. At Vasai Depot there is a sanction of 3 post of Vehicle Examiner. At Palghar Workshop there is no clear vacant post of the Vehicle Examiner, and therefore, there is no any administrative exigency to transfer the complainant from Vasai Depot. The complainant is residing at Kalyan. On transfer he has to travel by train only, which is practically impossible as he has a problem of deafness. There is risk to travel from Kalyan to Palghar daily. The complainant could not shift the family to Palghar as his wife is not in a good physical condition, and she is frequently remains ill. The complainant has only daughter, who is married and has some family problem, and therefore, she is residing with the complainant and the grand daughter of the complainant is taking education at Kalyan. Therefore, it is difficult to the complainant to shift the family to Palghar. If any Vehicle Examiner is to be transferred from Vasai to Palghar than the junior most must be transferred. However, the respondents have not applied any seniority principle and has issued the transfer order only because he is the member of ST Kamgar Sanghatana.

4. The respondents have issued the transfer order of Mr.Thorat abruptly and he filed a Complaint(ULP)No.167 of

2019 before the Industrial Court, Thane. The said transfer order is stayed on medical ground, and another junior Vehicle Examination Mr.Pilote is there. The complainant has not worked more than 3 years as a Vehicle Examination at Vasai. The respondents vide Circular dated 16.11.1981 decided a policy of transfer. They have directed to all the unit head, not to transfer the employees by way of punishment or by way of victimisation, however the said guidelines are violated by the respondents. As per the said circular and guidelines, the transfer orders will be issued in the month of March to April of every year, so also before issuing the transfer order 3 options or priorities will be called from the employees. It is specifically directed that, the person who is due for retirement during a year will not be transferred from the present place of working on any count. It is stated that, the complainant is due for retirement after 8 months i.e. within one year and on that count also the present transfer is against the guidelines. As per the settlement for the year 2000 to 2004 the specific guideline is given that the intimation of transfer will be given minimum 7 days well in advance. However, in the present case the respondents have not given any intimation of transfer. There are number of employees working in the same depot against whom many complaints are pending, however they are not transferred. Juniors are also not transferred. Thus the respondents have shown favoritism and discrimination, and therefore, the respondents have engaged into unfair labour practices under Items 3, 5, 9 and 10 of Schedule IV of the MRTU & PULP Act, 1971. Hence, prayed that

the transfer order dated 26.12.2019 may be quashed and set aside and direct the respondents to allow the complainant to report on duty at Vasai Depot.

5. The respondents appeared and filed the Written Statement at Exh.C-4. It is submitted that, the transfer order of the complainant was issued by the respondent Corporation on 26.12.2019 from Vasai Depot, Palghar Division MSRTC to Divisional Workshop, Palghar and said transfer is within Palghar Division. The transfer is due to administrative exigency and it is purely administrative decision. There there is requirement of the Vehicle Examiner in the Divisional Workshop of Palghar Division as said post is vacant. At Vasai Depot 2 posts are available for the post of Vehicle Examiner and at present there are 3 Vehicle Examiners working. As such, there is one extra employee for the said post, hence the complainant is transferred within District. The complaint is nothing but a full of falsehood and vague allegations against the respondents. It is denied that, the transfer is by way of any punishment because he is member of S T Kamgar Sanghatana. It is denied that Mr. Pitole is junior to the complainant. As the complainant is junior in the said category, he has been transferred from Vasai Depot to Divisional Workshop Palghar. Mr.Deepak Thorat was transferred from Vasai Depot to Boisar Depot. The said order is stayed. The respondents have not violated any guidelines, settlement or rules of the Corporation. The complainant is performing his duty in the Vasai Depot and he has to perform same duty in the

Divisional Workshop Depot also. The complainant has miserably failed to substantiate the allegations and no case has been made out by the complainant, therefore, the prayed that the complaint may be dismissed.

6. Heard arguments. Issues are framed by my Ld. Predecessor at Exh.O-3. After hearing arguments and perusal of the records and pleadings, I record my findings alongwith reasons as under :-

<u>ISSUES</u>	<u>FINDINGS</u>
1) Whether the complainant proves that, the respondents have engaged in unfair labour practices under Items 3, 5, 9 and 10 of Schedule IV of the MRTU & PULP Act, 1971 ?	In the : Affirmative.
2) Whether the complainant is entitled to the reliefs claimed ?	In the : Affirmative.
3) What order ?	: As per final Order.

:- REASONS :-

7. **As to Issues No.1 and 2** :- Both these issues are interconnected, hence I am taking all the issues for simultaneous consideration. The present complaint is filed for cancellation and setting aside of the transfer order issued to the complainant by the respondents on 26.12.2019. It is admitted fact that, the complainant is working as Vehicle Examiner at Vasai Depot of the Corporation. He has been issued with the

transfer order on 26.12.2019 from Vasai Depot to Divisional Workshop Palghar. As per the contentions of the complainant, the transfer order is issued only to harass him as he is member of the ST Kamgar Sanghatana. Further it is difficult to the complainant to travel from his place of residence at Kalyan to Palghar daily. He cannot shift his family to Palghar due to illness of his wife and responsibility of his married daughter. On the contrary, the respondents have submitted that transfer is only on the ground of administrative exigency. The complainant is transferred within Palghar District. There is no any violation of any settlement or rules as alleged by the complainant. The complainant has examined himself at Exh.UW-1. He has filed transfer order at Exh.U-15. He has filed the documents along with list at Exh.U-16 containing medical papers of his wife and copy of the application of divorce petition of his daughter. He entered into witness box and reiterated his contentions of the complaint.

8. During the course of cross examination he stated that earlier there were 3 posts of Vehicle Examiner in Vasai Depot. Now there are 2 posts. He denied that one post of Vehicle Examiner was extra at Vasai Depot. He knows that only one post is at Palghar Division Workshop Depot as Vehicle Examiner. He further denied that more amount of work is there at Palghar Depot than Vasai Depot and there was necessity of one Vehicle Examiner at Palghar Workshop, and therefore, he was transferred. Mr.Deepak Thorat was working at Vasai Depot

and was transferred from Vasai Depot. Due to illness he did not report at Palghar Workshop and requested for VRS. He also stated that Mr. Pitole was senior to him and was working as Vehicle Examiner at Vasai Depot. He also admitted that he was not transferred on punishment. The respondents have not led any oral or documentary evidence. From the cross examination of the complainant it is clear that, the complainant was junior most at Vasai Depot. Further there was no transfer as punishment. Thus, there is no substance in the contentions of the complainant that the respondents have violated the rules by not maintaining the seniority list and kept juniors at Vasai Depot.

9. The other contentions of the complainant that he is suffering from illness, and therefore, it is difficult for him to travel daily from Kalyan to Palghar by train. The complainant is also stated that, he is going to retire in 6 months. The pursis to that effect is also filed on record at Exh.U-18. It is contended that, the complainant is still in the employment and he will be superannuated on 31.03.2026. In the present matter my Ld. Predecessor has passed the order below Exh.U-3 dated 21.01.2020. By virtue of the said order the impugned transfer order dated 26.12.2019 is stayed till next date with a condition that the complainant will argue interim application on next date. Thereafter no any order is passed on interim relief application. Hence, ad-interim order is still continued. Therefore, I am deciding interim application along with the

complaint. By virtue of this order the complainant is in the employment of the Corporation at Vasai Depot and transfer order is not effected. This fact is revealed during the course of argument advanced by Ld. Advocates for both parties.

10. The respondents have not led any evidence to prove that one post of Vehicle Examiner was extra at Vasai Depot and Vehicle Examiner was required at Workshop Palghar Division. They have not proved administrative exigency even by filing any oral or documentary evidence. There is mere submission in the written statement regarding extra post at Vasai Depot. Similarly the respondents have not proved as to why the transfer order was issued in the month of December when as per their own service guidelines it is to be issued in the month of March to April of every year. Further as per the Circular issued by the respondents it is specifically directed that, the person who is due for retirement in the year will not be transferred from present place of working on any count. The respondents have also stated that, there was administrative exigency and it is purely administrative decision. But if the rules of the Corporation as narrated by the complainant and which are not specifically denied by the respondents are considered an employee will not be transferred from his place when he is due for retirement. In the present matter, admittedly the complainant is due for retirement on 31.03.2026. Therefore, transfer of the complainant when he is at the verge of his retirement will not be proper and legal.

11. The respondents already transferred Mr. Thorat and his transfer was stayed, thereafter he took VRS. The respondents have not taken into consideration the grounds of the complainant. They have not sent any intimation of transfer to him as per their own rules and procedure. The respondents have failed to prove any administrative exigency in transferring the complainant from Vasai Depot to Divisional Workshop Palghar. Further the respondents have not earlier intimated the complainant about transfer. No any intimation was given to the complainant prior to issuance of order. This conduct on the part of the respondents shows that they are indulged in unfair labour practice under Item 3, 5, 9 and 10 of Schedule IV of the MRTU & PULP Act. I therefore, come to the conclusion that, the respondents have indulged into unfair labour practice and there is malafide intention on the part of the respondents to issue transfer order in the month of December. Therefore, the said transfer order is liable to be quashed and set aside. Hence Issues No.1 and 2 are answered in the Affirmative and for Issue No.3 following order is passed.

- : ORDER : -

- 1) The complaint is allowed.
- 2) The respondents are hereby declared to have engaged in unfair labour practices under Items 3, 5, 9 and 10 of Schedule IV of the MRTU & PULP Act, 1971 and they are directed to cease and desist from the same.

- 3) The transfer order dated 26.12.2019 issued by the respondents transferring the complainant from Vasai Depot to Divisional Workshop Palghar is hereby quashed and set aside and the respondents are directed to allow him to join at Vasai Depot and pay the wages regularly.
- 4) No order as to costs.

Date :- 06.03.2026.

(Amruta A. Patil),

Member,

Place :- Thane.

Industrial Court, Thane

Argued On :- 23.02.2026

Dictated On :- 06.03.2026

Typed On :- 07.03.2026

Checked & Signed On :- 09.03.2026

ASG/-