

**BEFORE SHRI S. Z. SONBHADRE  
MEMBER INDUSTRIAL COURT AT THANE MAHARASHTRA**



**Complaint (ULP) No.- 194 of 2022.  
CNR No.- MH IC 04 000 320 2022.**

**Exhibit – O – 4**

**Shri. Madhav Vyankatesh Bhise**

Age 57 Years

B – 19, Jalaramdeep So.

Ambika Nagar, Gograswadi,

Dombivli (East), Dist. Thane 421201. -- -- **Complainant**

**Versus**

**1. Divisional Controller**

MSRTC, Thane Division,

Nr. Vandana Talkies,

L. B. S. Road, Thane – West.

**2. M.S.R.T.C. Mumbai**

Through – Divisional Controller

Thane Division,

Nr. Vandana Talkies,

L. B. S. Road, Thane – West. -- -- **Respondents**

**Coram** :- Shri. S. Z. Sonbhadre, Member Industrial Court.

**Appearances** :- Shri. U. S. Jagdale, Ld. Adv. For Complainant.

Smt. Smita Danke, Ld. Adv. For Respondents.

**ORDER ON PRELIMINARY ISSUE OF  
FAIRNESS OF INQUIRY & ON FINDINGS OF INQUIRY OFFICER  
( Delivered On 18-08-2025 )**

**01.** This is the Complaint under Section 28, R/w. Items 9 and 10, of Schedule – IV, of the Maharashtra Recognition of Trade Union & Prevention of Unfair Labour Practices Act, 1971 (Hereinafter Referred to as “MRTU & PULP Act”). Complainant in this Complaint have challenged the Charge-Sheet dated 22-12-2020 and Recovery Order dated 20-10-2021. The Facts of the Complaint are as under :-

**02.** Complainant stated that, he was initially recruited in the Year 1987 as “Helper”. In the year 2000, Complainant was promoted as “Assistant Art” (Mechanic). Further, in the Year 2008, Complainant was promoted as “Art A”. Latter, in the Year 2014, the Complainant was promoted as “Head Mechanic”. Complainant stated that, his Service Record is Clean and Excellent. Last Drawn Basic Wages of the Complainant was Rs. 38,644/- Per Month.

**03.** Complainant stated that, there was no posting on Assistant Work Superintendent. As such, as per the directions of Depot Manager, the Complainant was looking after the work of Assistant Work Superintendent (AWS). The Complainant stated that, even while working as AWS, the

Complainant is required to fill in the Register in his own handwriting and Complainant has to work on engine to improve the KPTL (Kilometer Per 10 Ltr.) of the Buses. As such, Complainant claimed himself to be the 'Workman', as defined under Section 2(s) of the Industrial Disputes Act.

**04.** Complainant stated that, the Vigilance Officer submitted Investigation Report No.- 49, dated 10-12-2020 and in the said Report, it is stated that Complainant has given the work of Cleaning the Buses to the Private Employees and Complainant have Violated the Circular No.- 01 of 2020 dated 11-03-2020. It is stated against the Complainant that, the work is allotted without calling Tender and Complainant is responsible for the same. Complainant was served with Charge-Sheet dated 22-12-2020, whereby Charges under Clause 9, 10, 11 and 15 of Schedule A of the D & A Procedure, where leveled against the Complainant.

**05.** The Complainant denied the Charges vide Reply dated 11-01-2020 and stated that as per instructions, Lady Cleaners can not be given Duty after 8.00 p.m.. So also, Disabled Persons can not be given Duty after 6.00 p.m.

Complainant stated that, only One Cleaner was available in the Night Shift who was also engaged as Vehicle Examiner. As such, it is stated that, the Depot Manager has obtained permission from the Divisional Office and Divisional Manager. Complainant in his Reply dated 11-01-2021 also stated that the Depot Manager has made available and he has engaged Private Cleaners for the said job of Cleaning the Buses. As such, it is case against the Complainant that, the Complainant is Not Responsible for engaging Private Cleaners.

**06.** The Inquiry was conducted against the Complainant. It is case of the Complainant that, inquiry is Not Fair and Proper and is in Violation of Principles of Natural Justice. It is further case of the Complainant that, the Findings of the Inquiry Officer are Perverse. As such, the Complainant by filing this Complaint, have challenged the Recovery Order and have also challenged Fairness of Inquiry and Findings of the Inquiry Officer.

**07.** Respondents have filed its Written Statement at Exh. C-3 and have opposed the claim of the Complainant. It is case of the Respondent that, Complainant have Violated the

provisions of Circular dated 11-03-2020 and have engaged the Private Cleaners, inspite of the availability of Cleaners at Vitthalwadi Depot. It is further stated that, the Private Cleaners are engaged without calling Tenders. Respondents stated that, the Complainant is responsible for the irregularity committed by the Complainant. It is case of the Respondents that, inquiry conducted against the Complainant is Fair and Proper and is as per Principles of Natural Justice. Respondents further stated that the Findings of the Inquiry Officer are duly supported by material available on record and are Not Perverse. As such, Respondents prayed for holding the inquiry to be Fair and Proper. Respondents further prayed for declaring the Findings of the Inquiry Officer as Not Perverse.

**08.** In view of the Rival Submissions of the Parties, issues are framed at Exh.- O-3. Issue No.- 1 and 2, of the said issues, are the issues in respect of Fairness of Inquiry and Findings of the Inquiry Officer. Said issues are taken up for adjudication, as Preliminary Issues, on the basis of Inquiry Proceedings filed by the Parties, without adducing any further

Fresh Evidence. Said issue No.- 1 & 2, in respect of Inquiry are reproduced hereunder and I have recorded my Findings against each of them, for the Reasons to be followed -

<b><u>Issues</u></b>	<b><u>Findings</u></b>
1. Whether the Complainant proves that the Inquiry conducted against the Complainant is Not Fair, Proper and is against the Principles of Natural Justice ?	-- <b>Affirmative</b>
2. Whether the Complainant proves that the Findings of the Inquiry Officer, are Perverse and are not supported by the Material available on record ?	-- <b>Affirmative</b>
3. What Order ?	-- <b>As Per Final Order</b>

**- : REASONS : -**

**09. As To Issue No.- 1 & 2.-** Heard both Sides. Perused Records. Even though, Complainant is working on the Post of Head Mechanic and is also looking after work of Assistant Work Superintendent, yet it is case of the Complainant that he is an 'Workman'. Respondents have also Not Disputed the Status of the Complainant as 'Workman'.

**10.** Complainant have filed on record the Documents with List Exh.- U-2. So also, Respondents have filed on record the Inquiry Papers with List Exh.- C-6. The Documents are Not Disputed by both the parties. It has come on record that, earlier, one Private Contractor M/s. Brisk India Company was cleaning Buses @ Rs.145/- Per Bus, Said M/s. Brisk India Company have stopped providing Cleaners for cleaning the Buses. w.e.f. 01-01-2020. It has also come on record that the said period of the Year 2020 was the Covid Pandemic Period.

**11.** The Respondent MSRTC, due to non supply of the Cleaners, by the Contractor, decided to Clean the Buses at Local Level. It is admitted position that, the period during which Complainant have engaged the Cleaners was peak Period of Corona Pandemic. During the said period, MSRTC was required to provide Buses only after Cleaning and Sanitation. Because of stopping to provide the services by M/s. Brisk India Company, Respondent MSRTC have issued Circular No.- 1 dated 11-03-2020. The Charge-Sheet dated 22-12-2020 read as under :-

**प्रमाद :-** सुरक्षा व दक्षता अधिकारी, रा प. ठाणे विभाग यांनी अहवाल सादर केल्यानुसार तुम्ही लेखाकार म्हणून रा. प. विठ्ठलवाडी आगारात कामगिरी करीत असून खालिलप्रमाणे नमुद केल्यानुसार तुमच्या कामातील निष्काळजीपणा व हलगर्जीपणामुळे रा. प. महामंडळास आर्थिक बोजा सहन करावा लागला.

रा. प. विठ्ठलवाडी आगारात ०६ (सहा) रा. प. स्वच्छक नियुक्त असताना आगारामध्ये खाजगी स्वच्छकांमार्फत रु. १००/- प्रति बस या दराने रा. प. बसेस धुण्याचे काम करून घेतल्यामुळे रा. प. महामंडळास आर्थिक बोजा सहन करावा लागला. वास्तविक प्रत्यक्षात आगारामध्ये ०५ स्वच्छक असताना त्यांचा वापर गाड्या धुण्याकरीता त्यांचे कामाबाबत योग्य नियोजन करून काम करून घेण्याची जबाबदारी तुमची असताना त्यांचा वापर या कामाव्यतिरिक्त रओअर, डी. डब्लु. एस., डिझेल पंप, डॉकिंग, पार्किंग, वाहन परिक्षक तसेच डिसी ऑफिस टपाल अशा कामासाठी केल्यामुळे खाजगी स्वच्छकांमार्फत रु. १००/- प्रति बस या दराने रा. प. बसेस धुण्याचे काम करून घेतले गेले. त्यामुळे रा. प. महामंडळाचे आर्थिक काटकसरीचे धोरण असतनासुद्धा ०१ जानेवारी २०२० ते १९ जुन २०२० या कालावधीत एकुण रु. १,५३,२२०/- ( एक लाख त्रेपन्न हजार दोनशे वीस रुपये) इतकी

रक्कम बाहय कर्मचा-यांना अदा करावी लागली व रा.  
प. महामंडळास आर्थिक बोजा सहन करावा लागला.  
सदरचे तुमचे वर्तन हे गैरवर्तन असुन शिस्त व अपिल  
कार्यपध्दतीमधील वरील दिलेल्या अनु. अ.  
कलममध्ये अंतर्भूत होणारे आहे. म्हणुन तुम्ही दोषी  
आहात.

**12.** perusal of the Charge Sheet reveals that the allegation against the Complainant is that, inspite of availability of Cleaners, Private Cleaners are engaged and Tenders are not called, prior to engaging the Private Cleaners.

**13.** I find that, prior to issuance of Charge-Sheet to the Complainant, Investigation Officer have submitted his Investigation Report No.- 49 dated 10-12-2020. Perusal of said Investigation Report, reveals that, said Investigation Officer have recorded the statement of Complainant and other Employees. In the said statement, it has come on record that, at Vitthalwadi Depot, out of Six Cleaners, Four Cleaners viz. (1) Smt. Katarnavare, (2) Smt. M. S. Kamble, (3) Smt. A. S. Salve, (4) Smt. S. G. Patil are the 4 Ladies Cleaners. Out of said 4 Lady Cleaners, Smt. Katarnavare have retired in February 2020 and

2 Gents Cleaners viz. Shri. S. V. Dhivar and Shri. K. G. Borude are working in Vitthalwaid Depot. It has come record that, in the statement of Shri. Anna Gulab Rathod that, when he was working Cleaners were assigned the work.

**14.** The Statement of Complainant is also recorded, and is discussed in Para 4 of the Investigation Report No.- 49 dated 10-12-2020. Complainant, in his statement has stated that, out of Six Cleaners, there were 4 Lady Cleaners. One of the Lady Cleaner by name Smt. Katarnavare is retired in February 2020. There were Two Gents Cleaners. Said Cleaners were assigned the Duties of Cleaning and Washing the Buses. It is stated that, since 01-01-2020, M/s. Brisk India Company have stopped to provide the Cleaning Services and because of that, Buses were required to be cleaned at the hands of Private Cleaners. Complainant stated that, he has inquired with the in the Divisional Office and Divisional Engineer, Shri. Bansod told the the Complainant that, there will be no objection for Cleaning the Buses at the hands of Private Cleaners. Buses are cleaned @ Rs. 100/- Per Bus.

**15.** It has also come on record that, existing Cleaners were Not Sufficient for cleaning the Buses. So also, Lady and Handicapped Cleaners can not be engaged for Night Duties. Existing Cleaners were already cleaning the Buses in Day Shift. There were No Cleaner for cleaning the Bus at Night Shift. Complainant have stated that, he has engaged Private Cleaners after having talks with Depot Manager. The Depot Manager is in-charge of Depot. When the Complainant have very specifically stated that, he has engaged the Private Cleaners after having talks with Divisional Engineer and Depot Manager and since it was Peak Period of Corona Pandemic, I am of the view that, it was obligatory on the part of the Respondents to examine Divisional Engineer and Depot Manager in the Inquiry proceeding. The Respondents by not examining the Divisional Engineer and Depot Manager, in the inquiry have deprived the Complainant of his opportunity to Cross Examine both the said authorities on his point of his Defense.

**16.** As such, I am of the view that, inquiry conducted against the Complainant is Not Fair and Proper. Specially so,

when it has come on record that, M/s. Brisk India Company used to clean Buses at the rate of Rs. 145/- Per Bus. The Private Cleaners used to clean the Buses at the rate of Rs. 100/- Per Bus. As such, I am of view that, inquiry conducted by the Respondents against the Complainant is Not Fair and proper and is opposed to the Principles of Natural Justice.

**17.** The Inquiry Officer have submitted his report, however, Inquiry Officer have not considered the Statement recorded of the Employees, including the Statement of Complainant. Complainant is coming with specific plea that private Cleaners are engaged, only after talks with Divisional Engineer and Depot Manager. The Inquiry Officer should have considered the statement of Complainant and other Employees. So also, the Circular dated 11-03-2020, provided for engaging Private Cleaners at Local Level. It was peak period of Corona Pandemic. At that time, most priority was of cleaning the Buses at the Cheapest Possible Rate. The Private Cleaner used to clean the Buses @ Rs. 100/-, which was much less than the rate of agreed with Private Cleaner Contractor, M/s. Brisk India Company.

**18.** The Inquiry Officer has not considered the submissions of Complainant that, out of 6 Cleaners, 4 were Lady Cleaners and out of them also One Lady Cleaner was retired in February 2020. So also, the Lady Cleaners and the Handicapped Cleaners can not be engaged in the Night Shift. Said fact is not considered by the Inquiry Officer in his Findings. As such, Findings of the Inquiry Officer are Perverse and suffers from non consideration of material available on record.

**19.** Accordingly, issue No.- 1 and 2 are answered in Affirmative, thereby holding that, Complainant have proved that the Findings of the Inquiry Officer are Perverse and are not supported by material available on record. Accordingly, Issue No.- 1 & 2 are answered in the Affirmative, thereby holding that the Complainant have proved that the inquiry conducted against the Complainant is not fair and proper and is against the Principles of Natural Justice. As such, I proceed to pass following order :-

**- : O R D E R :-**

- i.** Inquiry conducted by Respondents, MSRTC against the Complainant Shri. Madhav Vyankatesh Bhise is Not Fair and Proper and is against the Principles of Natural Justice.
- ii.** Findings of the Inquiry Officer against the Complainant, Shri. Madhav Vyankatesh Bhise, are not supported by material available on record and are Perverse.
- iii.** No Orders as to Costs at this Stage.

Date :-  
18-08-2025.  
Place :- Thane.

S. Z. Sonbhadre  
Member  
Industrial Court, Thane

PPK