

BEFORE THE INDUSTRIAL COURT, MAHARASHTRA, (AMRAVATI BENCH), A M R A V A T I.

COMPLAINT (ULP) No.92/2023.
CNR No.MHIC27000137-2023.

Rupesh Surendra Kokate and one other.

----- Versus -----

M.S.R.T.C., Amravati and one other.

ORDER BELOW EXH.U-2
(Delivered On 21-09-2023)

01] This is an application filed by the complainants seeking relief u/s 30(2) of MRTU & PULP Act. Both the complainants came with the case that they are appointed on the post of Driver and they were not given the training of Conductor. The non-applicant Depot Manager of the respondent with malicious intention compelling them to discharge the duty of Conductor. The respondents have not given any written order for discharging the work as Conductor. The complainants are in employment as a Driver. The Advertisement was published for the post of Driver. The complainants were duly selected on the post of Driver and joined their duties. They are brought on regular time scale after completion of six months. The respondents cannot compel the complainants to work as a Conductor. The Depot Manager is compelling to work as a Conductor and threatening with dire consequences. There is apprehension that the respondents anyhow wants to change the work of complainants. It

amounts to unfair labour practice as contemplated under Schedule IV Item 9 and 10 of MRTU & PULP Act.

02] The respondent has filed reply below Exh.C-3. It is their contention that both the complainants are holding the post of Driver cum Conductor (junior). They are trained as Conductor and having license. As per the advertisement in 2015 both were selected and appointed as a Driver but in advertisement it was mentioned that they will have to submit the license of Conductor and after getting training they will have to work as a Driver cum Conductor. It is specifically mentioned in the advertisement in Para No.6 as per General Standing Order dated 10.07.2015 that instead of driver the post be filled as Driver cum Conductor. They are legally appointed on the post of Driver cum Conductor and, therefore, no question arises to compel them. The complainants have suppressed that they have submitted license of Conductor and they are trained.

03] Considering the facts and circumstances of the case and submissions of both sides following points arises for my determination and I have recorded my findings with reasons thereon.

POINTS

FINDINGS

- | | | |
|----|---|----------|
| 1] | Whether complainants prove prima facie case in their favour ? | No. |
| 2] | Whether balance of convenience lies | |

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in their favour ?

....No.

3] What Order ?

..... Application is rejected.

REASONS

04] **As to point No.1 to 3** :- Heard both sides. From the record it appears that, the complainants are challenging the oral orders of respondent no.2 by which it is alleged that they have compelled the complainants to do the work of Conductor. According to complainants the respondent no.2 is forcing to discharge the duty of Conductor without issuing any written order. Ld. Advocate for complainants submitted that, if the complainants starts the work of conductor then there is apprehension that they will be trapped by the checking staff for any minor misconduct. It is submitted that, the complainants appointed on the post of driver as per the advertisement and, therefore, they cannot be compelled to do the work of Conductor. On the other hand Ld. Advocate for respondents submitted that, the complainants have suppressed the material facts in this case. In the advertisement it was mentioned that they will have to submit the license of conductor and they will have to work as Driver cum Conductor. It is submitted that, in the General Standing Order it is specifically mentioned that instead of Driver the post will be filled up as Driver cum Conductor. It is further submitted that, according to the advertisement the complainants

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submitted their license of Conductor and this fact is suppressed by them. They are trained as a Conductor and the posting itself is Driver cum Conductor as per the new policy.

05] I have gone through the record. The advertisement was published for direct recruitment for the post of Driver (Junior). In Para No.6 it is specifically mentioned that, the candidates have to submit the license of conductor before joining the service and he will have to do the work of Conductor along with duty of Driver. In General Standing Order issued by the respondent department dated 10.07.2015 the cadre of Driver is shown to be Driver cum Conductor (Junior). It is specifically mentioned that since 28.02.2014 the recruitment will be of the post of Driver cum Conductor instead of Driver. The respondent has issued order dated 16.05.2017 pertaining to Drivers appointed in the recruitment process of 2015 and they are called as Driver cum Conductor (Junior). All the employees listed in the order have submitted their license of conductor and they are trained accordingly. The fact that the complainants have submitted their license of conductor and they are trained as a Conductor is known to the complainants. They are having knowledge of the Standing Orders and establishment order dated 16.05.2017 issued by the respondents. It appears that having knowledge of respondents order dated 16.05.2017, the complainants have not raised any objection at the

relevant time regarding orders passed by the respondents.

06] The complainants have filed their affidavit supporting their contenting stating that they are confirmed on the post of Driver and ready to work on nonstop bus without conductor. It is to be noted here that, considering the Standing Orders passed by the respondent, prima facie there is no force in the contentions of complainants that they are compelled by the respondents to do the work of Conductor. If the complainants are having knowledge of Standing Order dated 10.07.2015 and 16.05.2017, there is no explanation from them as to why they have kept mum since last more than 6 years. The complainants have to prove in the case about their allegations that, the respondents orally compelled them to do the work of Conductor. There is no order passed by the respondents compelling the complainants and, therefore, standing orders passed by the respondents prima facie sustains. Mere apprehension of the complainants cannot be considered at this stage when there are specific standing orders passed by the respondents regarding the post of Driver cum Conductor (Junior). If the relief is granted, the entire administration of respondents regarding allotting duties will be disturbed. The submissions of complainants have no force that if they work as a Conductor, they will be involved in the case of misconduct. It appears that this is unnecessary apprehension in the

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mind of complainants without any substance. I find no merit in the present application and hold that the complainants are failed to prove prima facie case and, therefore, the application deserves to be rejected. I answer my findings as above and proceed to pass following order.

ORDER

- 1] Application Exh.U-2 is rejected.
- 2] No order as to costs.
- 3] Parties to note.

Amravati
Date :- 21.09.2023.

(D. N. Surwase)
Member,
Industrial Court, Amravati.

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