

BEFORE SHRI S. Z. SONBHADRE
I/C. MEMBER, INDUSTRIAL COURT, AT AMRAVATI

Complaint ULP No. 76 / 2020

CNR No. MHIC27-000161-2020

Nilesh Devidasrao Rane,
Aged 42 Years, Occ. Service,
R/o Pimpalkhuta (Motha),
Tq. Morshi & Distt. Amravati.

- **Complainant**

Versus

1. Maharashtra State Road Transport Corporation,
Through Its Divisional Controller,
Amravati Division, Amravati.

2. Maharashtra State Road Transport Corporation,
Through Its Divisional Traffic Officer,
Amravati Division, Amravati.

- **Respondents**

Order Below Exh. C-2

(Delivered On 14-12-2020)

01. The Complainant has filed Complaint along with Interim Application, thereby challenging the order dated 25-11-2020, whereby the punishment of Withholding One Annual Increment on Permanent Basis is imposed upon the Complainant, for proved misconduct. The Complainant has served Advance Notice upon the Respondents. The Respondents appeared vide Exh. C-1 and are seeking time to file Reply and Written Statement vide Application Exh. C-2. The Complainant has strongly opposed this Application and stated that, if time is granted, till then, the Respondents be directed not to act upon the impugned order.

02. Heard the Ld. Counsel for Complainant. Perused the Documents. The Documents reveal that, the Charge against the Complainant is that, on 21-06-2017, while driving the Bus No. MH – 40 – N – 8698, was damaged on the Conductor side from front back and the Corporation has suffered loss of Rs. 20,000/-.

03. Perusal of Statement of the Complainant reveals that, on 21-06-2017, while driving the Bus, the Complainant took Bus, to the Conductor side and because of Babool Tree, the Bus was damaged. The defense of the Complainant is that, because of Focus Light of the Vehicle coming from opposite direction, he could not see the Branch of Babul Tree. I prima facie find that, the Complainant could have noticed the Babool Tree. Or alternatively if the Complainant was not able to see, he could have stopped his Bus by applying the breaks and damage to the Bus could have been avoided. As such, prima facie no case is made out by the Complainant for grant of Ad-interim Relief either in the form of Statusquo or in the form of directions to the Respondents not to act upon the order dated 25-11-2020.

04. The Complainant has relied on the law laid down by the *Hon'ble Bombay High Court*, in the case of *Chandrakumar Madhukar Deshmukh And Etc. -V/s- The Board of Trustees of Port of Bombay And Others*, reported in *1995 Lab. I.C. 1496*, wherein, it is held as under -

Domestic enquiry – Natural Justice – out of two statements of witnesses, enquiry officer accepting one in favor of prosecution and rejecting other in favor of delinquents without giving reasons and without examination of those witnesses – Held, enquiry was perverse and in violation of principles of natural justice.

05. In the present case, the Complainant himself in his Statement has admitted that he could not see a Branch of Tree and therefore, accident was happened. As such, with due respect to the ratio laid down by the Hon'ble Bombay High Court, in the case of *Chandrakumar Madhukar Deshmukh And Etc. (Supra)*, I am of the view that, the same can not be applicable to the facts of the case in hand, at this ad interim stage.

06. Apart from above position, it appears that the Complainant is repeatedly causing accidents. In this Complaint (No. 76/2020) the Accident is dated 21-06-2017. In the Complaint ULP No. 77/2020, the Accident is dated 27-06-2018. As such also, at this ad-interim stage, I am not inclined to grant any protection to the Complainant, without hearing the Respondents. As such, I proceed to pass the following order.

ORDER

- i.** Application at Exh. C-2, in the Complaint ULP No. 76/2020 is hereby allowed and time is granted to the Respondents to file their Reply & W.S..
- ii.** The prayer of Complainant for directions to Respondents to maintain status quo, or for directions to Respondents, not to act upon order dated 25-11-2020, till filing Reply, is rejected.
- iii.** No Order as to costs.

Akola.
Date –
14-12-2020.
SVK/-.

S. Z. Sonbhadre
I/c.Member
Industrial Court, Amravati