

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

Complaint ULP No. 77 / 2020

CNR No. MHIC27-000162-2020

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 Two 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 27-06-2018, while driving the Bus No. MH 14 BT 2382, the Bus has dashed with the Tipper, coming from the Opposite Side and was damaged which caused Loss of Rs. 50,000/-.

03. Perusal of Statement of the Complainant reveals that, on 27-06-2018, when the Complainant was performing his duty on the Bus from Amravati to Morshi, the Complainant applied the Break and Staring was Locked and the Bus went to the Driver Side and Break were not working and therefore, there was Head On Collision with the Truck coming from opposite side. As such, it prima facie appears that the Complainant has not properly applied the Breaks and it can not be accepted that on applying the Break, the Bus will go to the Driver Side. As such, I am of prima facie view that, the Complainant is responsible for Accident. As such, prima facie no case is made out by 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 Accident has 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. 77/2020) the Accident is dated 27-06-2018. In the Complaint ULP No. 76/2020, the Accident is dated 21-06-2017. 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. 77/2020 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.
- iv. No Order as to costs.

Akola.
Date –
14-12-2020.
SVK/-

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