

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

COMPLAINT (ULP) No.103/2023.
CNR No.MHIC27000173-2023.

Ku. Bakubai Narayan Bapat

----- Versus -----

Maharashtra State Road Transport Corporation, Amravati and one other.

ORDER BELOW EXH.U-2
(Delivered On 19-03-2024)

01] The complainant has filed this application seeking relief u/s 30(2) of MRTU & PULP Act.

02] The complainant came with the case that, she is working with the respondent as a Conductor since January 2011. She was transferred to Amravati Division in 2017. On the date of incident the complainant was discharging her duty on the bus plying from Varvat to Vasadi. The group of six passengers boarded in the bus. The complainant issued proper tickets to them. All the remaining passengers were holding valid tickets. The bus was checked at village Eklara. The checking party created false report stating that the group of 6 passengers had boarded from Varvat to travel to Bawanbir and had paid fare to the complainant for the alleged journey. It is further alleged that there is difference of amount of tickets issued to the group of 6 passengers. The

checking party found that the cash with complainant was less by Rs.44/-. The statements of the passengers were recorded and they were forcibly asked to make their signatures. The charge-sheet was issued alleging the different charges. The enquiry was conducted in the year 2019. Only the complainant was examined and no other witnesses were examined. The principles of natural justice were not followed during the enquiry. There is inaction on the part of respondent for near about 5 to 7 years in conducting the enquiry. There is no satisfactory explanation from the respondent for conducting such enquiry up to 7 years long period. The delay on the part of respondent itself amounts to unfair labour practice. The reporter or his assistant was not examined during the enquiry. The spot statements not proved during the enquiry. The alleged misconduct on the part of complainant is of the year 2014 when he was working in Buldhana Division. The enquiry was conducted against the complainant in Amravati Division by issuing show cause notice. The enquiry is not fair and proper and the punishment is baseless.

03] The respondents have filed reply below Exh.C-4. The respondent denied all the allegations of complainant regarding alleged unfair labour practice. It is the contention of respondent that, the complainant admitted that she had issued tickets of less denomination to the group of passengers. There is no necessity to prove the documents

and examine the witnesses on behalf of the respondent. The reporter was dismissed from the services in the year 2015 and, therefore, he could not come before the enquiry officer. The complainant herself admitted the charges and, therefore, there is no necessity to examine other witnesses. The enquiry is conducted in a proper manner by giving opportunity to the complainant. The statements were recorded in presence of complainant. She is well aware about her past service record. Considering the gravity of misconduct such punishment is imposed.

04] Considering the above contentions following points arises for my determination and I have recorded my findings with reasons thereon.

<u>POINTS</u>	<u>FINDINGS</u>
1] Whether complainant proves prima facie case in her favour ?Yes.
2] Whether balance of convenience lies in her favour ?Yes.
3] What Order ? Application is allowed.

REASONS

05] As to point No.1 to 3 :- Heard both sides. The competent authority has issued show cause notice dated 04.10.2023 and it is proposed that, 5 future increments of complainant are permanently

barred. The punishment is proposed on the basis of charge-sheet issued to the complainant. Ld. Advocate for complainant submitted that, at the time of checking the bus all the passengers were having valid tickets. False allegations have been made by the checking party against the complainant. It is submitted that, the charge-sheet is issued in the year 2014 and the punishment is proposed in the year 2023. It is submitted that, there is no proper explanation from the respondent as to why such long period lapsed in conducting the enquiry and proposing the punishment. It is submitted that only the complainant is examined during the enquiry and no other witness like reporter or his assistance is examined. On the other hand Ld. Advocate for respondent submitted that on the basis of enquiry report impugned punishment is proposed. The complainant had issued tickets of less denomination to the group of 6 passengers. It is submitted that, the complainant herself admitted the charges leveled by the Corporation and, therefore, it is not required to examine any other witness.

06] I have gone through the record. It is not disputed that on the date of incidence the complainant was discharging her duty and at the relevant time the bus was checked. It is reported by the Assistant Traffic Inspector that, the complainant issued tickets of less denomination to the group of 6 passengers and Rs.44/- was found less. It

is alleged that the complainant was having mala fide intention to misappropriate the amount of Corporation. The complainant in her statement explained that, she was near about to issue the tickets of difference amount but at the same time the bus was checked and the checking party took the custody of ticket machine. She has stated that inadvertently such ticket was issued by her and she was not having intention to grab the amount. The statement of one of the member of group of passenger was recorded on the spot. She also deposed that, she had paid Rs.78/- to the conductor for ticket from Varvat to Bawanbir. It is deposed that, the conductor issued ticket of Rs.36/- at Eklara stop. The complainant in her reply to the charge-sheet also fairly admitted that inadvertently such tickets of next stage was selected by her in the machine and she was going to issue the tickets of different amount. It prima facie appears from the record that while issuing the tickets of difference amount the bus was checked and, therefore, it was found that the complainant issued tickets of less denomination.

07] Now it is the contention of respondent that, the complainant has admitted in her guilt and, therefore, it is not necessary to examine any other witness. Prima facie, I am not agree with the submission of Ld. Advocate for respondent. The complainant fairly admitted that she was near about to issue the remaining tickets of

difference amount and, therefore, it cannot be said that she had admitted her guilt. It was binding upon the competent authority to examine relevant witnesses i.e. the reporter and the passenger so as to enable the complainant to cross-examine them. This is not happened in this case. The record prima facie indicates that only on the basis of statement of complainant the enquiry was concluded and punishment was proposed. It was possible for the competent authority to call reporter Shri A.K. Aghadate in the enquiry though he is retired from the service. It is not properly explained by the respondent as to why such long period has been lapsed in conducting the enquiry against complainant. The bus was checked on 09.12.2014 and the charge-sheet was issued in the same year but the enquiry is conducted since 2019 to 2023. The impugned punishment order is passed on 04.10.2023 i.e. after 9 years of incident. I am prima facie agree with the submissions of Ld. Advocate for complainant that during this period the complainant remained under the threat of punishment without any reason. I am of the view that if at present the impugned show cause notice is not stayed, the complainant would suffer hardship. On the contrary no prejudice would be caused to the respondent if till final disposal of the case the show cause notice is stayed. In the result, I hold that the application deserves to be allowed. I answer my findings as above and proceed to pass following order.

ORDER

- 1] Application Exh.U-2 is allowed.
- 2] The effect and operation of show cause notice dated 4.10.2023 pertaining to complainant is hereby stayed till final disposal of the case.
- 3] No order as to costs.
- 4] Parties to note.

Amravati
Date :- 19.03.2024.

Sd/-
(D. N. Surwase)
Member,
Industrial Court, Amravati.