

IN THE LABOUR COURT AT ALIBAG, DIST – RAIGAD
COMPLAINT (ULP) NO. 01/2024
(CNR No. MHLC06000012024)

Gajanan Kisanrao More.

Age- 38 Yrs, Occ. Service.

R/O- Post. Vilegaon,

Tal.- Ahmadpur Dist.- Latur.

Complainant...

V/S.

- 1. Maharashtra State Road Transport Corporation, Raigad Division-Ramwadi, Tal.- Pen, Dist.- Raigad- 402 201**
- 2. Divisional Controller, Maharashtra State Road Transport Corporation, Raigad Division-Ramwadi, Tal.- Pen, Dist.- Raigad- 402 201**
- 3. Divisional Traffic Superintendent, Maharashtra State Road Transport Corporation, Raigad Division-Ramwadi, Tal.- Pen, Dist.- Raigad- 402 201**

Respondent(s)..

CORAM : G. S. Hange, Judge

Appearances :

1] Mr. D.R. Karnik, Adv. for the complainant.

2] Mrs. S.M. Mokal, Adv. for the Respondents.

Order below Exh. U-2
(Passed on 21/11/2025)

The complainant presented this application for restraining the respondents from giving effect to show cause notice

of dismissal dtd. 04/09/2023 till the conclusion of the matter under section 30(2) of the MRTU and PULP Act, 1971. (Hereinafter referred to as “the Act”)

Facts in brief

2. The complainant came to be appointed as a Driver cum Conductor with the respondent no. 1 corporation with effect from 11/01/2020. He was posted at Murud depot and since then he has been in continuous employment of respondent corporation. The respondent no. 1 corporation is engaged in providing motor transport service for carrying passengers across the state of Maharashtra. Respondent no. 2 is the employer and appointing authority of the complainant. The respondent no. 3 has issued the chargesheet and show cause notice to the complainant. All respondents are severally and jointly responsible for unfair labour practices caused against the complainant. The corporation comes within the ambit of an Industry as defined under the Industrial Dispute Act, 1947 and the provisions of Model Standing Orders are applicable to it.

3. The complainant states that during the course of employment an anonymous complaint was received by the respondent in year 2022 wherein, it was alleged that the several criminal cases are pending against the complainant. On the basis of said complaint the preliminary enquiry was conducted by the

Security and Vigilance Officer, Raigad Division. He submitted the report in which it was stated that the complainant suppressed material information in the online application form submitted by him for the post of Driver cum Conductor in year 2016-17. On the basis of said report the chargesheet was issued to the complainant on 11/11/2022 under clauses 10, 11, 22, 29(A) and 29(B) of the Discipline and Appeal procedure.

4. The complainant states that he replied to the chargesheet on 15/12/2022 and denied all the allegations leveled against him. Thereafter, the respondent corporation without considering his reply conducted an enquiry which was initiated and completed by the Enquiry Officer on the same day 28/07/2023. Thereafter, a show cause notice dtd. 04/09/2023 was issued to him on 01/01/2024 informing about his dismissal from the service. He states that the only charge which was leveled against him was about suppression of material information for securing employment with respondent corporation in year 2016-17. He states that it was alleged against him that he suppressed information about mortal accident in year 2013 in the online application form and on basis of the said fact Summary Criminal Case No. 427800/2013 was lodged and is pending against him. The respondents proceeded to hold him guilty of charges leveled against him in chargesheet dated 11/11/2022.

5. The complainant states that in the online application form he was not required to furnish information regarding pending

criminal cases but the only information regarding causing of any mortal accident. The complainant has not been found guilty and convicted in the criminal case till date and therefore, it can not be said that he suppressed material information while submitting the online form. He had no intention of submitting false information or suppressing any material from the respondent corporation.

6. The complainant states that pendency of criminal case can not be a ground to hold him guilty of misconduct of suppression of information. In fact the information of pending criminal case was never asked for in the application form. The respondents misdirected themselves and proceeded to punish him for misconduct which was not committed by him. The said chargesheet was issued under the signature of respondent no. 3. However, the respondent no. 2 being an appointing authority is empowered to issue a chargesheet to him and further take any disciplinary action. Therefore, the enquiry initiated on the basis of such a chargesheet becomes null and void. The Enquiry Officer and the Disciplinary authority can not be the same. The respondent corporation has acted as per its own whims and fancies. The act of the respondents is nothing but the victimization in law and by doing that they have engaged into unfair labour practices against the complainant as defined under Item 1(a) of Schedule IV of MRTU and PULP Act.

7. The complainant states that the respondents by issuing a show cause notice dated 04/09/2023 have used their right in

colorable manner and not in good faith and therefore, they are guilty of unfair labour practices defined under Item 1(b) of Schedule IV of the Act. The enquiry conducted against him was in violation of principles of natural justice. He was not given fair opportunity to defend himself. The enquiry was conducted with undue haste without giving opportunity to him. The approach of the respondents has been prejudicial to the right of the complainant. The punishment of dismissal is totally unwarranted considering the conduct of the complainant as he has clean and unblemished past record which was not taken into consideration. Therefore, by this application the complainant prayed for granting temporary injunction restraining the respondents from acting upon the show cause notice dated 04/09/2023.

8. Respondents filed their reply at Exh. C-3. According to them the complainant has been facing a charges under Section 304 A and 279 of IPC and Sections 184, 119 and 177 of Motor Vehicle Act in SCC NO. 2013/2014. Further, there were complaints of outraging modesty of a women against him in Ahmadpur Taluka. The complainant has not mentioned anything about mortal accident at the time of filing the online application for the post of Driver cum Conductor. However, the he had caused a mortal accident on 06/12/2013 when he was driver at private bus in Pune. The FIR No. 325/2013 for the above mentioned offence of IPC and MV Act was lodged against him. He was arrested in said offense and was later released on bail. The complainant has suppressed this material

information from the respondents and committed fraud on it and obtained the job in the respondents corporation. Therefore, the charges under clauses 10, 11, 22, 29(a) and 29(b) were kept against him.

9. According to respondents the complainant has made out false story as the departmental enquiry was conducted by following the principles of natural justice and as per D and A Procedure of the Corporation. According to them the charges leveled against the complainant are duly proved and the findings drawn by the enquiry officer are proper and not perverse.

10. According to respondents in departmental enquiry the complainant was allowed to represent him by the Union Representative to defend the case. He was allowed to secure the presence of witnesses to defend his case. He was given full opportunity to cross examine the witnesses. The enquiry officer has considered oral as well as documentary evidence brought before him. The respondents have reiterated the alleged facts of misconduct in their written statement and have contended that the complainant has committed misconduct by suppressing the material fact of pending criminal case of mortal accident against him and thereby committed fraud against the respondents.

11. According to respondents the charge sheet was served

upon the complainant on 11/11/2022. He also replied to the same immediately. The departmental enquiry conducted against him was conducted in accordance with the principles of natural justice. The opportunity of being heard and to lead evidence was also given to him. The evidence adduced in the enquiry was properly considered by the enquiry officer. Therefore, the findings recorded by the enquiry officer can not be held to be perverse. On these grounds the respondents have prayed for declaration that the enquiry held against the complainant was fair and proper and findings recorded by the enquiry officer was not perverse. In the end they prayed for rejection of the present application as there is no prima facie case in favour of the complainant.

12. Considering rival pleadings of both the parties following points arose for my consideration. I have recorded my findings thereon for the reasons recorded below.

| <u>ISSUES</u> | <u>FINDINGS</u> |
|---|-----------------|
| 1. Whether the complainant proves that there is a prima facie case in his favor ? | "No" |
| 2. Whether the complainant proves that the balance of convenience lies in his favor ? | "No" |
| 3. Whether the complainant proves that he | "No" |

will suffer irreparable loss if the application is rejected ?

4. What Order ?

As per final order

13. Learned advocates of both the sides advanced their arguments. Both the parties relied upon the documents regarding the enquiry of the complainant which will be referred at the proper stage during the discussion.

ISSUE NOS. 1 TO 3 (Collectively)

14. All these issues are related to each other, therefore, for the sake of brevity and convenience they are discussed together. It is a case of the complainant that on the basis of anonymous complaint of pending criminal cases against him the preliminary enquiry was conducted and it was found that he suppressed material information in the online application form submitted by him for the post of Driver cum Conductor in year 2016-17. According to the complainant he was not required to furnish information regarding pending criminal cases and the only information which was sought was about causing of any mortal accident. Therefore, the charge leveled against him in the chargesheet are false and on the basis of those charges the notice issued to him for the dismissal on 04/09/2023 is not legal. On the other hand the respondents contend that the complainant has committed fraud by suppressing material information about the mortal accident caused by him in year 2013.

They contend that the complainant has been found guilty of misconduct in the enquiry made against him. Therefore, the show cause notice of dismissal was issued against him.

15. I have carefully gone through the documents filed on record by both the parties. On 11/11/2022 the chargesheet was issued to the complainant alleging that he was arrested in an offence involving death and he has been facing a criminal case in Pune Court and this information was concealed by him while filling the form for the post of Driver cum Conductor in year 2016-17 and obtained job in the corporation by committing fraud on it. In response to the chargesheet the complainant filed reply on 15/12/2022 in which he admitted the fact of pending case against him under Sections 304 A and 279 of IPC. According to him the false case has been lodged against him as there was no involvement on his part in the alleged incident. In his reply he has nowhere denied pending of criminal case of mortal accident against him. Further, in his enquiry also he admitted the fact of pending criminal case against him in answer to question numbers 17 and 18. Further, he also admitted in the enquiry that at the time of filling the application he has not mentioned anything about pending case in the application as he was just suspect and not the convict. In brief it becomes clear that before entering into service the complainant had caused mortal accident and he has been facing a trial under Section 304 A of IPC in Pune Cour and he had not filled any information in the online form regarding the pending case against him.

16. The respondents filed on record the online application form of direct recruitment of respondents of year 2016-17. I have carefully gone through the contents of the same. In last column of the online application one question was posed to the applicants asking occurrence of any mortal accident on their part. It appears that the complainant has answered that question in negative. The said application was filled after the complainant was charged for mortal accident in the JMFC Court Pune. It shows that while filling the application of recruitment for the post of Driver cum Conductor the complainant has not stated the fact of accident occurred when he was working at private company in Pune. The question posed in the application is clear and specific. It appears that the complainant has suppressed the fact of mortal accident in the said application.

17. According to learned Advocate for the complainant there was no information sought for pending criminal cases against the applicants and therefore, the applicant did not fill the details of the case in it. According to him the complainant has not been convicted in criminal case pending against him therefore, it can not be said that he is responsible for causing mortal accident. According to him the language used in the application does not speak about pending cases and that can not be equated with providing false information or suppressing material facts. I have given my thoughtful consideration to the arguments advance by the learned advocate for the complainant. However, perusal of the application form for direct

recruitment shows the information asked is about occurrence of any accident by the applicants at the time of filling the application. It does not expect and admittedly has not sought any information regarding pending criminal cases of the applicants. Pending of criminal case under Section 304 A of the IPC shows that the applicant was involved in the accident causing death of a person. Causing an accident is a prerequisite for a criminal case. Without any accident no case would have been filed against the complainant. The respondents are not concerned with the outcome of the criminal case as no question to that effect of pending case is posed to applicants. The respondents only needed the information of accident by the applicants before entering into service. Therefore, pending case of mortal accident in criminal court is sufficient to hold that the complainant caused mortal accident before entering into service which is direct suppression of material fact sufficient to make him not eligible for the job.

18. In order to substantiate his argument the learned Advocate for the complainant relied on the authority of Hon'ble Supreme Court *Secy. Dept. of Home Secy. AP and Others Vrs B. Chinnam Naidu*, Civil Appeal No. 1014 of 2005 decided on 09/02/2005. In the said case the candidate was required to fill the attestation form in which he had to show his conviction or detention in a court of law. It is stated therein that by answering that the respondent had not been convicted or detained under Preventive Detention Laws it can not be said that he had suppressed material

fact or furnished false information in the attestation form to incur disqualification. However, the facts of the present case are somehow different as the question in the application form in question was not about conviction or detention but it was about taking place of any mortal accident at the hands of the applicant. The complainant by answering the same in negative suppressed the fact of accident caused by him when he was working with the private company. If the criminal case had not be lodged against him still the facts would not have changed and the complainant should have mentioned the said fact of accident in his application form. Therefore, with due respect the authority cited by the complainant is of no use considering the nature of facts in the present case.

19. Similarly, the learned Advocate for the complainant relied upon the authority of Hon'ble Supreme Court in *State of West Bengal and Others Vrs Mitul Kumar Jana*, Civil Appeal No. 8510/2011 decided on 22/08/2023. In the said case the information was sought in the column no. 12 of verification role regarding arrest, detention and conviction by a court in any offense. Further in the said case the respondent was acquitted as the prosecution failed to prove the charges against him. This is not the case at hand. The information sought in the present case at hand was not of any arrest or conviction but simple fact of mortal accident. The complainant by emphasizing more on the fact of pending criminal case is trying to divert the main issue of accident at the hands of the complainant before entering into the service. Therefore, with due respect the

above cited authority will not be of any use to the complainant.

20. Further, the learned Advocate for the complainant relied upon the authority of Hon'ble Supreme Court in ***State of Uttaranchal and Others Vrs Kharagsingh***, civil appeal no. 4531 of 2007 decided on 13/08/2008. In the said case it was held that the enquiry officer himself acted as the investigator, prosecutor and judge which is opposed to principles of natural justice and such a course adopted by the enquiry officer can not be accepted. The respondent in the present case alleged that the respondent no. 3 has been appointed as an enquiry officer and issued show cause notice to the complainant. According to him the enquiry officer and disciplinary officer can not be the same person. However, as per Rule 18 of Discipline and Appeal Procedure the appointing authority is competent to initiate departmental proceedings and hold an enquiry and award punishment. He may appoint an enquiry officer to conduct an enquiry and on the recommendations of the enquiry officer the appointing authority may award punishment. Therefore, I do not see any defect in the disciplinary authority performing the role of punishing authority and enquiring authority.

21. Considering above facts and circumstances I do not find any ground to extend the protection of interim relief to the complainant as apparently it is proved that he indulged into fraud by not providing authentic information in the application form required to fill for the post of Driver cum Conductor. The complainant has

failed to raise a *prima facie* case in his favor. There is no balance of convenience in his favor. If the application is rejected he will not face the irreparable loss. On the other hand the respondents will suffer loss as the hardship which will be caused by rejecting the application will be greater to the respondents than the complainant. Therefore, at this stage extending the protection to the complainant from the show cause notice of dismissal will be nothing but the travesty of justice. Against this backdrop I answer point nos. 1 to 3 in the negative and pass the following order.

ORDER

- 1) Application is rejected.
- 2) In the circumstances no order as to costs.

Alibag.
Date: 21/11/2025

(G. S. Hange)
Judge
Labour Court, Alibag