

MHIC240002312022



Presented on : 07.03.2022
Registered on : 08.03.2022
Decided on : 05.10.2023
Duration : 01Y, 06M, 27D

IN THE INDUSTRIAL COURT MAHARASHTRA
(LATUR BENCH), LATUR

Revision (ULP) No. 33/2022
(Exh. O - 2)

Ravi Ambadas Shinde,
Age : 38 years, Occ. Service,
R/o Prakash Nagar, Latur,
Tal. & District – Latur.

: REVISION PETITIONER

-Versus-

Maharashtra State Road Transport
Corporation, Divisional Office,
Through It's Divisional Controller,
Latur.

: RESPONDENT

CORAM

Shri. Dhanaji A Jadhav, Member.

APPEARANCE

Shri. A.M. Kale, Ld. Adv. for Revision Petitioner.

Shri. D.P. Marathe, Ld. Adv. for Respondent.

JUDGMENT
(Dictated in Open Court on 01.11.2023)

Being aggrieved and dissatisfied by the dismissal of the complaint by Ld. Labour Court and upholding the final show cause notice of dismissal by Judgment in Complaint (ULP) No. 47/2014 dated 10.11.2022 of, complainant is before this Court by present revision.

Hereinafter, for the sake of convenience, the parties shall be referred to as 'complainant' and 'respondent' as per their original nomenclature before Ld. Labour Court in Complaint ULP No. 47/2014.

Shorn of unnecessary details, the facts required to decide the petition are as under :

2. Complainant is working as a 'Conductor' with respondent at AUSA Depot. On 14.04.2014, he was on duty on S.T. Bus plying on AUSA to Chinchwad route. The bus was checked by flying squad at Murud. It is found that, a group of four passengers was travelling from Latur to Indapur. They paid fare of Rs. 183/- each in total 732/- to the conductor but conductor issued ticket of Latur to Dhoki of lesser denomination of Rs. 212/- and misappropriated amount of Rs. 520/-. One passenger was travelling from Latur to Yedshi. He paid fare of Rs. 71/- to conductor at Latur but conductor issued ticket of lesser denomination of Rs. 41/- for Latur to Murud and misappropriated amount of Rs. 30/-. The flying squad checked cash on hand and it is found more by Rs. 126/-. Pursuant to the report, on 17.01.2014 charge-sheet came to be

issued under clauses 7(g), 7(j), 7(h), 12 and 22 of Discipline and Appeal Procedure. Complainant replied to the charge-sheet and participated in the enquiry. In the enquiry, he was held guilty and punishment of dismissal with stigma of dishonesty was proposed by notice dated 24.07.2014. Complainant assailed final show cause notice of dismissal dated 24.07.2014 by filing Complaint ULP No. 47/2014 before Ld. Labour Court.

3. According to the complainant, the enquiry was not fair, legal, proper and by observing the principles of natural justice. The findings of the enquiry officer are perverse. He inadvertently issued ticket from Latur to Dhoki to the group of passengers travelling from Latur to Indapur. Due to noise in the bus, he heard that passenger asked ticket from Latur to Murud, therefore, he issued ticket instead of issuing from Latur to Yedshi. None of the passengers complained against the complainant. He has not committed any misconduct.

4. Respondent appeared, filed its written statement vide Exh. C-3 and denied adverse allegations. It is contended that, the enquiry conducted against complainant was fair, legal and proper by observing the principles of natural justice. Complainant participated in the enquiry. He was given full opportunity in the enquiry. The findings of the enquiry officer are not perverse, hence, proposed punishment of dismissal with stigma of dishonesty is commensurate with act of misconduct.

5. Ld. Labour Court by order dated 26.02.2021 held that, departmental enquiry conducted against complainant is fair, legal, proper by observing the principles of natural justice but findings of the enquiry officer are perverse. Pursuant thereto, respondent corporation examined its witness before Ld. Labour Court. Ld. Labour Court after hearing both sides by judgment dated 10.11.2022 upheld final show cause notice of dismissal with stigma of dishonesty and dismissed the complaint. The said judgment is assailed on one amongst following grounds.

(i) Judgment of Ld. Labour Court is erroneous and contrary to the law.

(ii) Ld. Labour Court has given much importance to the spot statement recorded by Traffic Inspector.

(iii) Ld. Labour Court has not applied its mind to the facts as the enquiry is not fair, legal and proper and findings are perverse.

(iv) Ld. Labour Court has given much importance to unproved documents Exh.C-9 filed by the respondent.

(v) Ld. Labour Court has considered past service record of the delinquent without giving opportunity to the complainant.

6. Having gone through the rival contentions of the parties, following points arise for my determination and I record my findings thereon as under for the reasons to follow:

Sr. No.	<u>POINTS</u>	<u>FINDINGS</u>
01	Whether the Ld. Labour Court has committed legal error apparent on the face of record ?	In the Negative.
02	Whether the findings arrived at by the Ld. Labour Court is perverse & requires interference of this Court ?	In the Negative.
03	What order ?	Revision is dismissed.

REASONS

7. Heard, Ld. Advocate Shri. A.M. Kale for the complainant and Ld. Advocate Shri D.P. Marathe for respondent at length.

AS TO POINT NO. 1 to 3 :-

8. All the issues are connected, hence, to avoid repetition, they are discussed together. There is no dispute that, Ld. Labour Court in first part of judgment on preliminary issues dated 26.02.2021 held that, enquiry conducted against complainant is fair, legal, proper in accordance with principles of natural justice but findings of enquiry officer are perverse. Therefore, respondent corporation filed affidavit in lieu of examination in chief of its Assistant Traffic Inspector Shri Arjun Raut vide Exh. C-7. He categorically deposed that, he as a member of a flying squad checked S.T. Bus plying on AUSA to Chinchwad route. A group of four passengers was travelling from Latur to Indapur. They paid fare of

Rs. 183/- each in total 732/- to the conductor at Latur but conductor issued ticket of lesser denomination of Latur to Dhoki of Rs. 212/- and misappropriated amount of Rs. 520/-. One passenger was travelling from Latur to Yedshi. He paid fare of Rs. 71/- to conductor at Latur but conductor issued ticket of lesser denomination of Rs. 41/- for Latur to Murud and misappropriated amount of Rs. 30/-. The cash on hand was found more by Rs. 126/-. Complainant misappropriated fare amount of Rs. 550/-. He denied the suggestion that, he made false report that complainant misappropriated amount of Rs. 520/-. He denied that, complainant inadvertently issued ticket of lesser denomination. He was cross-examined at length but nothing is elicited in his cross-examination to show that he is not speaking the truth.

9. There are statements of the passengers and delinquent himself (Exh.C-9 and C-10) to substantiate that, in fact, complainant issued tickets of lesser denomination as mentioned in the report. It is material to mention that, delinquent in his spot statement admitted that, he issued ticket of Rs. 212/- by accepting fare of Rs. 720/- from the passengers travelling to Indapur. He also admitted that, he accepted fare of Rs. 71/- from the passenger travelling from Latur to Yedshi and issued ticket of lesser denomination of Rs. 41/- for Latur to Murud. He also admitted that, cash on hand was found more by Rs. 126/-. His admissions in his spot statement support the claim of the respondent, therefore, there is no reason to disbelieve testimony of respondent's witness Arjun Raut. Ld. Labour Court has rightly relied on his evidence.

10. Complainant has not offered any explanation for more cash of Rs.126/- found with him. Admittedly complainant was custodian of the cash as such, he was duty bound to give details of less or more cash found with him while he was on route. The cash was more itself indicates that, conductor has not issued tickets of proper denomination to the passengers though accepted proper fare from them. There being no explanation on the part of complainant, it has to be held that, complainant misappropriated that amount. Had the bus been not checked, complainant would have misappropriated that amount. The intention to misappropriate the amount is apparent from the act of delinquent, hence, Ld. Labour Court has rightly held him guilty on both the charges. There is no perversity in the findings of Ld. Labour Court.

11. Revision petitioner placed much emphasis on the point that Ld. Labour Court relied on document at Exh.C-9 without it being proved in evidence. I have gone through record and proceeding. Document at Exh.C-9 are the statements of the passengers recorded on 14.1.2014 and document at Exh.C-10 is statement of delinquent himself recorded on 14.1.2014. It seems that, documents vide list Exh.C-5 i.e. all enquiry papers were referred to respondent's witness Arjun Raut in his cross examination by Ld. Advocate for complainant / delinquent before Ld. Labour Court and pursuant thereto, all the enquiry papers came to be exhibited as Exh.C-8 to C-12. It necessarily means, complainant / delinquent admitted those documents, therefore, they were referred

to the witness. Therefore, Ld. Labour Court has rightly exhibited those documents being referred to the witness during his cross-examination. There is no substance in the contention of the complainant that, document vide Exh.C-9 is relied on by Ld. Labour Court without it being proved.

12. So far as the defence of complainant /delinquent that, he inadvertently issued tickets of lesser denomination or due to loud noise, he could not hear the destination points of the passengers seems to be devoid of any merits. As discussed above, there are statements of the passengers on record which contradicts the defence of the delinquent. More pertinently, his own statement vide Exh.C-10 is inconsistent with his defence, hence, it has to be held that, he raised these contentions only for the sake of defence. His defence is not probable and it has been rightly discarded by Ld. Labour Court.

13. Conductor is backbone of M.S.R.T.C. department as he comes directly in contact with public / passengers and is also involved in revenue generation. Therefore, high degree of integrity and honesty is required on his part while discharging duty. His every action on duty is being watched or observed by the public at large. If he indulges in such acts and in misappropriation in fare amount, it will not only bring disrepute to the department but reduce the revenue also. Misappropriation any where is a termite and it has to be crushed with iron hands. Ld. Labour Court while considering the proportionality of the punishment rightly taken into consideration

past service record of the complainant and his own admission in cross-examination that, five punishments have been imposed on him. Hence, it cannot be held that, Ld. Labour Court has not considered his past service record. Ld. Labour Court has rightly concluded that, the punishment of dismissal is not disproportionate with the act of misappropriation of fare amount. Hence, interference of this Court is not warranted. There is no perversity or error in the impugned Judgment. Hence, revision is liable to be dismissed. In view, I answer point no. 1 and 2 in the negative and in answer to point no. 3, I pass following order.

ORDER

1. The revision petition is dismissed with costs.
2. R & P be sent back to Ld. Labour Court.

Date :- 01/11/2023
Place :- Latur.

(Dhanaji A. Jadhav)
Member,
Industrial Court, Latur.

Argued On : 19/10/2023
Judgment Dictated on : 01/11/2023
Judgment Transcribed on : Directly dictated on computer, hence no transcription.
Checked & Signed on : 01/11/2023