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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8829 OF 2016

Surendra Narayan Shinde ...Petitioner
vs
Divisional Traffic Superintendent MSRTC,
Kolhapur And Ors. ...Respondents

.....
Mr. Meelan Topkar, for the Petitioner.

Mr. G.S. Hegde, for Respondent Nos. 1 to 3.

.....
CORAM : PRASANNA B. VARALE, J.

DATED: 26 SEPTEMBER, 2017

P.C. :

. Heard learned Counsel for the Petitioner in challenge to the order dated 3 March 2016 impugned in the petition.

2. The Counsel submits that the learned Member of the Industrial Court failed to appreciate the material in its proper perspective. The Counsel submitted that the Petitioner was subjected to three charges, namely, charges under Section 7E, i.e. re-issue of the sold tickets, Section 10 – indiscipline, and Section 22 – Insubordination. The Counsel submits that though the Enquiry Officer found that the first charge is not fully proved, and the same is only partly proved against the Petitioner, the learned Member erroneously observed that the misconduct as per Section 7E is proved. Learned Counsel then submitted that the Enquiry Officer, while recording his finding, clearly observed

that the exchange of the tickets between the passengers was on account of receiving a message informing that there is death in the family. The Enquiry Officer again clearly observed that the material fall short to arrive at a conclusion that the intention of the Petitioner was of misappropriation of the amount. Learned Counsel submits that the charges said to be proved against the Petitioner are only mis-conduct under Sections 10 and 22, namely, indiscipline and insubordination. Learned Counsel submits that the punishment awarded to the Petitioner of stoppage of his three increments permanently is shockingly disproportionate. Learned Counsel then submits that dismissal of the complaint on such mis-appreciation of the material is unsustainable. Learned Counsel for Respondent Nos. 1 to 3 supports the order impugned in the petition. Counsel for the Petitioner made out a case for consideration and for grant of interim relief.

3. Rule returnable early. Interim relief in terms of prayer clause (b). Parties are at liberty to request for early hearing of the petition in view of the submissions made before this Court that the Petitioner is due for retirement within period of three years.

4. Learned Counsel waives notice for the Respondents.

(PRASANNA B. VARALE, J.)