
(1995) 06 BOM CK 0039
In the Bombay High Court
Case No : Writ Petition No. 381 of 1991

Maharashtra State Road Transport Corporation	APPELLANT
Vs	
Sudam Narayan Chaudhari	RESPONDENT

Date of Decision : 20-06-1995

Acts Referred:

Bombay Police Act, 1951 — Section 110, 112, 117
Constitution of India, 1950 — Article 227

Citation : (1996) 2 LLJ 338

Hon'ble Judges : B.N. Srikrishna, J

Bench : Single Bench

Judgement

B.N. Srikrishna, J.—This writ petition under Article 227 of the Constitution of India challenges an order dated 31st August, 1990 made by the Industrial Court, Pune in Revision Application (ULP) No. 2 of 1989 under the provisions of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (hereinafter referred to as "the Act").

2. The petitioner is a State Road Transport Corporation carrying on the business of transport of passengers in the State of Maharashtra. The Respondent was employed in the service of the petitioner as Bus Driver. On 9-7-1982 the Respondent came to Shivaji Nagar Bus Stand in the afternoon in a drunken state and picked up a quarrel with another Driver by name Jamdade. When this quarrel was going on, Depot Manager Yavatkar intervened and asked the Respondent to go out of the Depot. Instead of obeying the order of the Depot Manager Yavatkar, the Respondent abused Depot Manager Yavatkar in filthy language, rushed at him and gave him a fist blow on his chest as a result of which the spectacles of the Depot Manager fell down. Since the Respondent was behaving in disorderly manner and was out of control, the Depot Manager called the police to subdue the Respondent. The Respondent abused the Constable and thereafter the police dragged him away. Although the police registered a criminal case against the Respondent under sections 110, 112 read with section 117 of the Bombay Police Act, the Criminal Court acquitted the Respondent on the

ground that the police had not produced a medical certificate showing credible evidence of consumption of alcohol and also on the further ground that the Bus Depot of the Petitioner was not a public place. The officers of the Petitioner recorded statements of seven witnesses present at the Bus Depot at the time of the incident. All of them described in graphic details the state of rage into which the respondent had worked himself up, the manner of his behaviour and the details of abuse and assault on Jamdade and Yavatkar. The respondent was served with the charge-sheet dated 14th July, 1982, in which, after describing the incident alleged against him, he was charged with acts of indiscipline, disobedience, riotous and disorderly behaviour and the act of subversive of discipline, insubordinate and indecent behaviour with co-employees on work and being found under the influence of intoxicating substance like alcohol or such other substance. A detailed enquiry was held against the respondent.

June 21, 1995.

3. As a result of the enquiry, the respondent was found guilty of the charges alleged against him. After giving a memo to show cause as to why he should not be dismissed from service and after hearing him, the respondent was dismissed from service by an order made on 31st August, 1985, effective from 14th December, 1985.

4. The Respondent challenged the order of dismissal from service by his Complaint (ULP) No. 145 of 1985 before the Labour Court, Pune. The Labour Court first went into the question as to whether a fair and proper domestic enquiry had been held into the charge-sheet issued to the Respondent and answered the issue completely in favour of the petitioner. It also held that the termination of the Respondent's service with effect from 14.12.1985 did not amount to unfair labour practice and that the Respondent was not entitled to any relief. In this view of the matter, the Labour Court dismissed the complaint by its order dated 18th November, 1986.

5. The Respondent challenged the order of the Labour Court by his Revision Application (ULP) No. 2 of 1989 before the Industrial Court, Pune. The Industrial Court, by impugned order dated 31st August, 1990, allowed the revision application, set aside the order of the Labour Court and directed reinstatement of the Respondent in service with continuity and full back wages. Being aggrieved thereby the petitioner is before this Court by the present writ petition.

6. Mr. Bapat, learned Advocate appearing for the Respondent workman, did not dispute that the domestic enquiry conducted into the charge-sheet given to the Respondent workmen was fully in compliance with the service regulations and principles of natural justice. His only contention was that the findings were perverse and, therefore, the Industrial Court rightly interfered with the order of the Labour Court and allowed the revision. Even a cursory perusal of the impugned order of the Industrial Court in the revision application shows that the first four paragraphs are devoted to the narration of facts. Paragraphs 5, 6 and 7

appear to be a narration of contention raised by Tathwadekar, learned Advocate appearing for the Respondent. Paragraph 8 is a summary of the contention urged in reply by the law officer of the petitioner Corporation. It is only in paragraph 9 of the impugned order that the Industrial Court has given the reasons for allowing the revision application. Since the reasons are illuminative, they are worth reproducing. Says the Industrial Court.

"After hearing the rival submissions and on going through the facts of this case and the record and proceeding of the Lower Court, I am of the view that the judgment of the learned Labour Court is not legal, valid and proper. The findings recorded deserves to be set aside and in view of that I find that the punishment of dismissal is shockingly disproportionate which must be set aside. In view of this finding, I also think that the applicant be directed to reinstate in service as he has been dismissed since 14.12.1985".

On this reasoning, the Industrial Court allowed the revision application, set aside the order of the Labour Court and directed reinstatement of the workman in service with continuity. Appreciably, Mr. Bapat had difficulty in sustaining this order. He contended that, merely because the Industrial Court failed to give proper reasons in its order in the revision application, there was no reason why the Respondent should be penalised for the default of the Industrial Court. The argument, doubtless, is attractive. I, therefore, requested him to urge the grounds afresh as to why the Labour Court's judgment needed to be interfered with. His first contention is that the Enquiry Officer's finding that the charges against the Respondent workman were proved, is perverse in as much as there was no evidence in support of the charges. As a matter of fact, the boot is on the other foot. Not less than 7 persons who were present at the Depot gave their statements immediately after the incident. The statements of the said witnesses recorded soon after the incident are more than illustrative of the demeanour, conduct and behaviour of the Respondent and also eloquently testify to the fact that he had behaved in the manner alleged against him in the charge-sheet. It is true that out of them one witness, Jamdade, retracted his statement during the domestic enquiry and tried to show that nothing as alleged had happened. The other witnesses, however, reiterated the contents of their statements recorded immediately after the incident, during the domestic enquiry. If on this material on record the Enquiry Officer chooses to accept the evidence of 6 witnesses and records the findings that the charges were proved, it is not possible to hold that the Enquiry Officer's findings were perverse.

7. Mr. Bapat then contended that no certificate as to the state of intoxication was produced before the Enquiry Officer and, at least to this extent, the Enquiry Officer's finding that the Respondent workman was guilty of charges under Clauses 10, 12, 29 and 45 of the Standing Orders was perverse. I am unable to agree. In the first place, there is no law which stipulates the quality or quantity of evidence to prove any particular fact before a domestic enquiry. It is more a matter of the Enquiry Officer's bona fide approach to the problem and attempts

to discover the truth, to the best of his ability, on the basis of all material which has some probative value. It is understandable that, because of the failure of the police to produce the proper medical certificate showing the alcoholic content in the blood of the Respondent, the Criminal Court acquitted him of charges under the Bombay Prohibition Act. It is also understandable that, taking the view that the Bus Depot of the Petitioner Corporation was not a public place, the Respondent was also acquitted of the charges under the Bombay Police Act. Neither fact is sufficient to hold that the charges against the Respondent were not proved in the domestic enquiry. In my view, the evidence given by the witnesses in the domestic enquiry was compatible with and suggestive of a state of high degree of intoxication on the part of the Respondent workman. The details of his demeanour, conduct and behaviour attested to by the eye witnesses, whose evidence was rightly accepted by the Enquiry Officer, clearly suggested that the Respondent workman was acting under intoxication. In these circumstances, even without production of a medical certificate as to blood contents, if the Enquiry Officer bona fide and honestly came to the conclusion that the Respondent had behaved in the manner attributed to him, ostensibly under the influence of an intoxicating substance, I see nothing wrong in the finding, much less and perversity in it. In fairness to Mr. Bapat, when I drew his attention to the statement of one of the witnesses in which he deposes to the state of influence of liquor in which the Respondent was, and I asked him whether that was not consistent with the view taken by the Enquiry Officer, Mr. Bapat did not further pursue the point. No other point has been urged to show that the Enquiry Officer's findings were perverse. Neither the so called reasoning in the impugned order, nor the contention canvassed at the Bar persuade me to accept the view of the Industrial Court that the order of the Labour Court needed interference.

8. In my view, there was no justification whatsoever for interfering with the order of the Labour Court which appears to be a proper exercise of its jurisdiction. The order of the Industrial Court impugned in this writ petition deserves to be and is hereby quashed and set aside. The order dated 18th November, 1988 passed by the Labour Court in Complaint (ULP) No. 145 of 1985 is hereby restored.

9. In the results, the Writ Petition is allowed. Rule made absolute with no order as to costs.