

(2000) 04 BOM CK 0077

In the Bombay High Court

Case No : Writ Petition No. 3099 of 1994

Pimpri Chinchwad Municipal Transport

APPELLANT

Vs

Shri Jagannath Narayan Shelar

RESPONDENT

Date of Decision : 06-04-2000

Acts Referred:

Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 — Section 28, 44

Citation : (2000) 3 BomCR 860 : (2000) 2 BOMLR 591 : (2000) 86 FLR 673

Hon'ble Judges : R.J. Kochar, J

Bench : Single Bench

Advocate : N.V. Walavalkar, for the Appellant; S.R. Nargolkar, for the Respondent

Judgement

R.J. Kochar, J.—The petitioner is a statutory Corporation established under the provisions of the Bombay Provincial Municipal Corporations Act, 1949 and is running a Transport service within the area of Pimpri Chinchwad Municipal Corporation.

2. The respondent employee was in employment of the petitioner as a Conductor since 1981 with some oral warnings on number of occasions about his unsatisfactory work. It appears from the record that on 16-12-1984 the respondent was on duty as a Conductor in a bus on route No. 305/1 which was to run on the route of Vadgaon Maval. It further appears that the said bus was checked by the Ticket Checkers and it was found that the respondent had received the amount of bus fare from 5 passengers but had not issued to them any tickets and that it was further found that he was having an amount of Rs. 65.95 in excess of the sale value of the tickets already issued. He was suspended from service from 9-1-1985 and was also served a charge sheet on 5-2-1995 wherein the charge of misappropriation of money belonging to the petitioner and the charge of insubordination was levelled against the respondent. It further appears that after a domestic enquiry held by the petitioner against the respondent he was dismissed from employment w.e.f. 24-12-1985.

3. The respondent was aggrieved by the said order of his dismissal from employment and therefore he filed a complaint of Unfair Labour Practice before the 3rd Labour Court, Pune under Item Nos. 1(a), (b), (d), (f) and (g), of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971. In the complaint legality and validity of the enquiry was also challenged. After a full-fledged trial before the Labour Court it was held in its Order dated 29-6-1989 that the petitioner had engaged in an Unfair Labour Practice and ordered reinstatement of the respondent with continuity of service and payment of 50% back wages at the rate of last drawn wages i.e. Rs. 475/- p.m. from 24-12-1985 till the date of his reinstatement. The Labour Court has given a detailed finding and has recorded its reasons. It has found that the charge of misappropriation levelled against the respondent was not serious and that the evidence before the Labour Court established at the most the charge of negligence. The Labour Court has also considered the past record of the respondent. Taking an over all view the Labour Court has directed reinstatement of the respondent with continuity of service and it has deducted 50% back wages on account of punishment for the act of negligence on his part. The Labour Court has appreciated the material on record and I do not find any illegality or infirmity to take any different view. It is further pertinent to note that the said order of the Labour Court was carried by the petitioners before the Industrial Court in Revision u/s 44 of the Act. The Revisional Court has also recorded concurrent findings of facts and has agreed that at the most the charge of negligence to have been proved and there was no element of dishonesty on the part of the respondent. The Industrial Court has also found that the respondent was negligent and has not committed an act of misappropriation of the petitioners' money. The Industrial Court has recorded that there was no error apparent on the face of record in the order passed by the Labour Court. I have also carefully gone through both the orders and I have no reason to disagree with the concurrent findings of the facts by both the courts below. The respondent has been found guilty of negligence and has been more than sufficiently punished when he was deprived of 50% of his backwages. According to me, both the courts have passed a just order in the facts and circumstances of the case, the respondent has been reinstated with continuity of service which means that he would be entitled to all the benefits of the continuity of service. In these circumstances the writ petition has no merits and the same deserve to be dismissed. Rule is discharged. No order as to costs.

Certified copy is expedited.

4. In view of the two courts clear cut finding about the act of negligence from the part of the respondent it would be proper that the respondent should be issued a warning for his act of negligence.

5. Petition dismissed.