
(2013) 02 BOM CK 0037

In the Bombay High Court

Case No : Writ Petition No. 5910 of 2012

Smt. Vijaya

APPELLANT

Vs

M.S.R.T. Corporation and Others

RESPONDENT

Date of Decision : 04-02-2013

Acts Referred:

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

Citation : (2013) 137 FLR 429 : (2013) 3 LLJ 220 : (2013) LLR 729

Hon'ble Judges : V.A. Naik, J

Bench : Single Bench

Advocate : V.G. Wankhede, for the Respondent

Final Decision : Dismissed

Judgement

V.A. Naik, J

1. Heard.

By this petition, the petitioner impugns an order passed by the Industrial Court on 20.4.2012, allowing the revision filed by the respondent Corporation and reversing the judgment passed by the Labour Court holding that the punishment inflicted upon the petitioner was shockingly disproportionate to the act of misconduct committed by the petitioner.

The petitioner was working as a conductor with the respondent Corporation. A charge of misappropriation of an amount of Rs. 29/was levelled against the petitioner. It was found by the Corporation after the bus was checked that one passenger was travelling from Chandrapur to Mul without ticket. The petitioner was held guilty in the departmental inquiry conducted against her. The charge of misappropriation was proved. After holding the departmental inquiry, the petitioner was dismissed from service. The petitioner challenged her termination in the Labour Court by filing a complaint u/s 28 of the Maharashtra Recognition of Trade Unions & Prevention of Unfair Labour Practices Act, 1971. The Labour

Court, on an appreciation of the evidence on record held that the departmental inquiry was fair and proper and the findings recorded by the Inquiry Officer were not perverse. The Labour Court, however, found that the punishment of dismissal was shockingly disproportionate to the act of misconduct committed by the petitioner. Hence, the Labour Court set aside the punishment of dismissal and instead granted the punishment of stoppage of one increment. The judgment of the Labour Court was challenged by the Corporation in a revision u/s 44 of the Act. The revision was allowed by the impugned judgment dated 20.4.2012.

2. On a perusal of the petition and the impugned judgment dated 20.4.2012 along with the judgment passed by the Labour Court on 9.4.2008, it appears that the Industrial Court was justified in reversing the judgment passed by the Labour Court. The Labour Court had clearly held that the inquiry conducted against the petitioner was fair and proper and the findings recorded by the Inquiry Officer were not perverse. The Labour Court found that the past record of the petitioner was unblemished. However, the Industrial Court on a perusal of the previous record of the petitioner found that the petitioner had committed similar misconduct for which the petitioner was asked to pay a fine of Rs. 5,000/-. The Industrial Court found that on 30.1.2006 the petitioner had reissued used tickets to four passengers. The Industrial Court held that the Labour Court was not justified in holding that the previous record of the petitioner was unblemished. Considering the misconduct and the past service record and also the Discipline and Appeal Rules, the Industrial Court rightly held that the Labour Court was not justified in interfering with the punishment imposed by the Corporation on the petitioner. The Industrial Court held, and rightly so that the punishment of dismissal was not shockingly disproportionate to the act of misconduct committed by the petitioner. The judgment appears to be just and proper and calls for no interference in exercise of the writ jurisdiction. In the result, the writ petition is dismissed with no order as to costs.