IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2545 OF 2005

The Divisional Controller,
Maharashtra State Road Transport Corporation,
Division Osmanabad, District Osmanabad. … Petitioner
[Original Respondent]

Versus

Shri Shaikh Ajaj Husain,
Age – 49 years, Occu – Service,
R/o Kureshi Galli, Naldurga,
Taluka Tuljapur, District Solapur. … Respondent
[Original Complainant]

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Mr. A. B. Dhongade, Advocate for the Petitioner.
Mr. Abhijeet B. Bhagat h/f Mr. A. N. Kakade, Advocate for the Respondent

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CORAM : ABHAY S. WAGHWASE, J.
Reserved on : 15.06.2026
Pronounced on : 16.06.2026

JUDGMENT :

1. Petitioner challenges judgment and order of learned Member, Industrial Court, Latur dated 07.08.2004 in Revision ULP No. (78/97) 31/2004 upholding the order passed by learned Judge, 2nd Labour Court, Solapur dated 08.07.1997 in Complaint ULP No. 219/91.

2. Brief background of the case is that, present respondent was a driver engaged by the petitioner herein, and while he was behind the wheels of State Transport Bus and plying the bus on Solapur to

Omerga road on 26.04.1989, he gave dash to a lady who alleged died on the spot, of which crime was registered against present respondent and he was duly chargesheeted. Based on the said chargesheet, employer MSRTC initiated departmental proceedings and in the same, initially show cause notice was issued and finding there to be no satisfactory explanation, it was concluded that the charges in the Departmental Enquiry are proved beyond reasonable doubt and by order dated 30.04.1990, respondent was dismissed from service i.e. by inflicting punishment.

Feeling aggrieved by the action of dismissal, present respondent knocked the doors of learned Labour Court, Solapur, which court after hearing both the sides, by judgment and order dated 08.07.1997, set aside the order of dismissal directing reinstatement in service with its continuity along with 30% back wages. Dissatisfied by the same, present petitioner approached the learned Industrial Court by fling Revision ULP No. (78/97) 31/04 but the same too came to be dismissed by order dated 07.08.2004. Hence the instant writ petition.

3. Learned counsel for the petitioner MSRTC would submit that, only grievance of Corporation is the direction of Labour Court, and its confirmation by Industrial Court, to the extent of 30% back wages.

According to him, respondent was not entitled to same as there was no evidence to show that he was not in any gainful employment during the period of suspension. Only to that extent, he prays for interference.

4. Learned counsel for the respondent would justify both the orders to be legally valid and correct.

5. Heard. Perused the record. After order of dismissal of present respondent dated 30.04.1990 issued by the petitioner, respondent seems to have approached learned Labour Court by filing ULP No. 219/91. Before the Labour Court, it was agitated by present petitioner that respondent was responsible for the death of lady on account of his rash and negligent driving. That, proper Departmental Enquiry was conducted and after giving sufficient opportunity of being heard, charges were held to be proved and therefore action of dismissal was initiated. He justifies the same and he also equally justifies the punishment inflicted on proving the charges in Departmental Enquiry. Learned Labour Court, after recording a finding that punishment was shockingly disproportional, and having found that respondent (present petitioner) has engaged in unfair labour practice by terminating the services of the present respondent, interfered by setting aside the termination. Complainant i.e. present respondent in

his complaint had prayed for continuity of service with back wages. As there was no contest by present petitioner (original respondent) by adducing any evidence that complainant was in gainful employment during the period of his unemployment, learned Labour Court rightly held that he was entitled to continuity of service with back wages, and after observing to that extent in para 17, held that present respondent is entitled to 30% back wages only, and not 100% back wages. Therefore, such order cannot be said to be perverse or illegal.

6. Even the appellate authority i.e. Industrial Court has tested the legality of the order and has refused to interfere in the revision filed by present petitioner.

7. Therefore there is no reason to disturb the concurrent findings. Hence there being no merits in the Writ Petition, the following order is passed :

ORDER

I. The Writ Petition is dismissed.

II. Rule Discharges,

[ABHAY S. WAGHWASE, J.]

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