

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

LETTERS PATENT APPEAL NO.141 OF 2011

Maharashtra State Financial Corporation,
a Corporation established under the
State Financial Corporation Act,
having its Head office at
New Excelsior Building, 9th floor,
Amrit Keshav Nayak Marg, Fort,
Mumbai-400 001.

Appellant

versus

Nimba Jagannath Tamboli,
M-32, N-5/24/7,
Swami Vivekanand Nagar, New CIDCO,
Nashik-422 009.

Respondent

Ms.Tanaya Patankar i/by Ms.NutanPatankar for Appellant.

Mr.Vijay P.Vaidya with Mr.Mahendra Agvekar, Ms.Shraddha Chavan for the
Respondent.

CORAM: G. S. KULKARNI &
AARTI SATHE, JJ.

Date of Reserving the Judgment : 11th December 2025

Date of Pronouncing the Judgment : 24th December 2025

JUDGMENT (Per : Aarti Sathe, J.) :-

1. This Letters Patent Appeal is directed against the judgment and order dated 1st March, 2011 (hereinafter referred to as 'the impugned order') passed by the learned Single Judge in Writ Petition No. 5752 of 1999 dismissing the Writ Petition filed by the Appellant Corporation (Original Petitioner), thereby upholding the order passed by the Industrial Court on 2nd September, 1999 in

Revision Application (ULP) No. 152 of 1997 thereby confirming the order passed by the Labour Court in Complaint ULP No. 145 of 1990 which orders reinstatement of the Respondent as the Respondent on being honourably acquitted by the Sessions Court.

2. Briefly the facts are:-

i. The Appellant Corporation is incorporated under the State Financial Corporations Act, 1951 and is engaged in financing small scale industries in the state of Maharashtra. The service conditions of the employees of the Appellant Corporation are governed by the Bombay State Financial Corporation (Staff) Regulations, 1954 (hereinafter referred to as the Staff Regulations), which are framed under the State Financial Corporations Act, 1951 with the prior approval and sanction of the Reserve Bank of India;

ii. A criminal case No 298 of 1977 was registered against the Respondent under Section 497 of the Indian Penal Code, 1860 before the Judicial Magistrate First Class (JMFC) Nandurbar;

iii. On 1st September 1983, the Respondent's employment was confirmed on the post of a clerk in the Appellant Corporation. It was the Appellant's case that at the time of appointment, the Respondent did not disclose to the Appellant that a criminal case was pending against him;

iv. On 31st March 1987, JMFC, Nandurbar passed an order convicting the Respondent under Section 497 of the Indian Penal Code, 1860, and accorded him a punishment of 6 months rigorous imprisonment and a fine in regard to which the Appellant became aware of this only through newspaper articles

published and the Appellant was not informed of such conviction;

v. On 5th April 1989, the Appellant taking recourse to Regulation 39 of the Staff Regulations applicable to the Respondent's employment, the Appellant terminated the services of the Respondent. Under such regulation, the Appellant is authorized to dismiss an employee who has been convicted of any offence involving moral turpitude;

vi. On 4th May 1989, the Respondent preferred a departmental appeal under the provisions of the Staff Regulations assailing his dismissal. On 14th May 1990 the departmental appeal preferred by the Respondent was decided. In such order passed by the Appellant authority, it was categorically held as also informed to the Respondent that as and when the Respondent is acquitted honourably, it would be open for him to ask for reinstatement in service;

vii. Assailing such order of the appellate authority and the termination, on 7th August 1990, the Respondent filed Complaint (ULP) No. 145 of 1990 against the Appellant alleging unfair labour practice under Item 1(a) to 1(g) of Schedule-IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971('MRTU & PULP Act'), before the learned Labour Court, Nashik;

viii. The Respondent correspondingly had meanwhile filed an appeal before the Additional Sessions Judge, Nandurbar challenging his conviction by the Court of Judicial Magistrate, First Class, Dhule by order dated 31st March 1987 in Criminal Case No. 298 of 1977. On 9th May 1991, the Additional Sessions Judge, Nandurbar rendered judgment on the appeal filed by the Respondent, acquitting

him, on the ground that the prosecution's case against the Respondent was not proved beyond a reasonable doubt and that there is no cogent and satisfactory documentary or oral evidence on record to hold that the Respondent was guilty of the offence as alleged;

ix. On 25th August 1997 the learned Labour Court, Nashik allowed Complaint (ULP) No.145 of 1990 thereby concluding that the Appellant had indulged in unfair labour practice under item 1(b), (f) and (g) of Schedule-IV of the MRTU and PULP Act, thereby ordering reinstatement of the Respondent along with full backwages from the date of complaint till realization;

x. On 24th September 1997 the Appellant challenged the said order dated 25th August 1997 passed by the Labour Court, Nashik by filing Revision Application bearing Revision Application (ULP) No.152 of 1997 before the Industrial Court, Nashik. By an order dated 2nd September 1999, the said Revision Application filed by the Appellant against the order dated 25th August 1997 came to be dismissed by the learned Industrial Court, Nashik;

xi. In October 1999 the Appellant filed Writ Petition No. 5752 of 1999 before this Court against the order dated 2nd September 1999 of the Industrial Court, Nashik. By an interim order dated 21st October 1999 passed in the said writ petition, the Appellant was directed to reinstate the Respondent within two weeks, however, the order on backwages was stayed. Liberty was granted to the Appellant to terminate the Respondent, if his acquittal was set aside subsequently;

xii. On 1st November 1999 the Respondent was reinstated by the Appellant. On 1st March 2011 Writ Petition No. 5752 of 1999 filed by the

Appellant assailing the order passed by the Industrial Court, was dismissed, against which present Letters Patent Appeal has been preferred by the Appellant. On 31st March 2011 the Respondent superannuated from his service with the Appellant.

3. It is on the aforesaid backdrop we that we proceed to decide the present Letters Patent Appeal, as to whether the action of Appellant Corporation in terminating the services of the Respondent was correct and valid and if the impugned order has been passed without appreciating the facts and law.

4. We have heard learned counsel for the parties. Learned counsel Ms. Tanaya Patankar appearing for Appellant Corporation has made the following submissions:

i. The Appellant was justified to terminate the services of the Respondent as per the provisions of Regulation 39 of the Staff Regulations, which permit/entitle the Appellant to dismiss an employee who is convicted of any offence involving moral turpitude. The Respondent in his cross-examination before the Labour Court, Nashik also accepted that his termination is not in breach of the Staff Regulations. Thus, the Labour Court, Nashik and the Industrial Court, Nashik have erroneously concluded that unfair labour practice, on part of the Appellant under Items 1(b), (f) and (g) has been proved. Moreso, both the courts have not recorded any finding on how the ingredients of each of these items have been fulfilled to reach such conclusion. The learned Single Judge of this Court in passing the impugned order passed has not dealt with the aforesaid issue;

ii. The Appellant, as an employer, was under its discretion to come to a conclusion that the acquittal of the Respondent was not an honourable acquittal and that he was acquitted merely by giving him the benefit of doubt;

iii. The Labour Court, the Industrial Court and the learned Single Judge of this Court, have erroneously come to the conclusion that the acquittal of the Respondent by the Additional Sessions Judge, Nandurbar was an honourable acquittal;

iv. The learned Additional Sessions Judge, Nandurbar while acquitting the Respondent has specifically held that the prosecution has been unable to prove its case against the Respondent beyond reasonable doubt. The learned Additional Sessions Judge, Nandurbar has come to this conclusion on the basis of lack of evidence against the Respondent and since the main witness turned hostile;

v. It is thus submitted that although prosecution had a case against the Respondent, it was simply not able to prove it beyond a reasonable doubt, due to lack of evidence;

vi. It is submitted that as per Regulation 39(2) of the Staff Regulations, the Appellant was vested with a discretion to reinstate the Respondent or not. The Respondent could not claim reinstatement as a matter of right, more particularly since he had admitted that his termination was not in breach of the Staff Regulations;

vii. The principle of 'no work no pay' should be applied and the Appellant Corporation should not be burdened by directing payment of full backwages;

viii. The Respondent was reinstated on 1st November 1999, and he superannuated on attaining the age of retirement on 31st March 2011. The Respondent was thus not working in the Appellant Corporation from 5th April

1989 till 31st October 1999. Therefore, this Court may apply the principle of no work, no pay while deciding the issue of grant of backwages. This Court may further consider that the Respondent has already been paid 40% backwages back in 2011 and that he has withdrawn the same. The Appellant Corporation is a loss-making financial corporation in severe financial doldrums and thus grant of full backwages at this stage will seriously place an impossible burden on the Appellant Corporation and would be wholly inequitable.

5. Learned counsels Mr. Vijay P. Vaidya along with Mr. Mahendra Agvekar and Ms. Shraddha Chavan appearing for the Respondent has submitted that the present appeal does not require any interference as it is a well-reasoned order which has taken into consideration that the Respondent was acquitted by the learned Additional Sessions Judge, Nandurbar and this position has been accepted by the learned Labour Court as well as the learned Industrial Court in the revision proceedings. It is submitted that this Court in Writ Petition No.5752 of 1999 has categorically held that the acquittal of the Respondent was not on the basis of benefit of doubt given to the Respondent, but on account of the fact that the prosecution had not 'proved beyond reasonable doubt' the case against the Respondent. It is hence submitted that the appeal be dismissed.

Analysis

6. We have heard the rival contentions as also perused the record and the impugned order. On the basis of the above we are of the view that present appeal does not call for any interference and is liable to be dismissed for the reasons which are discussed hereafter.

7. The Respondent was removed from the services of the Appellant Corporation relying on Regulation 39 of the Staff Regulations. For a better appreciation as to what Regulation 39 envisaged, it would be beneficial to reproduce the provisions of the Staff Regulations.

“39. Employees arrested For Debt Or on Criminal Charge:-

(1) An employee who is arrested for debt or on a criminal charge shall be considered as under suspension from the date of his arrest, and shall be allowed the payments admissible to an employee under suspension under Regulation 40 until the termination of the proceedings against him, when an adjustment of his pay and allowances shall be made according to the circumstances of the case and in the light of the decision as to whether his absence is to be accounted for as a period of duty or leave, the full pay and allowances being given only in the event of the employee being acquitted of all blame and treated as on duty during the period of his absence less the period spent by the employee in actual detention. An employee who is committed to prison for debt or is convicted of any offence involving moral turpitude shall be liable to dismissal.

(2) Where a conviction of an employee is set aside by a higher court, and the employee is acquitted honourably, he may be reinstated in service.

Explanation:-In this Regulation the expression "termination of proceedings" shall mean the decision of the lowest court which first finally disposes of the case. Committal or conviction shall mean committal or conviction by the lowest court or any of the appellate courts, and it shall be open to the Corporation to dismiss an employee who is committed to prison or who is convicted of a criminal charge as from the date of the order of the court that convicts him."

8. On a plain reading of the Staff Regulations it is very clear that an employee who has been committed to prison for debt or is committed for any offence involving moral turpitude, shall be liable to dismissal. However, if the conviction of an employee is set aside by a higher Court and the employee is acquitted honourably, he is entitled to be reinstated in service. In the facts of the present

case, it is an undisputed factual position that the Respondent had been acquitted in the criminal case by an order dated 9th May 1991 passed by Additional Sessions Judge, Nandurbar.

9. Further, both the Labour Court, Nashik as well as the Industrial Court, Nashik have categorically held that once the Respondent had been acquitted in the criminal prosecution, by virtue of Rule (2), the employee would be entitled to be reinstated. Relevant findings of the Labour Court in the order dated 25th August 1997 are reproduced below:

“27. I have gone through the complaint, the written statement, the documentary and oral evidence adduced by both the parties and the rulings cited also.

28. Considering the citations relied on behalf of both the parties, I am of the opinion that, the rulings relied upon by the complainant are directly on the point of this matter and they are helpful to the complainant because the facts of the present case and the facts of the said rulings appear to be same. Therefore, they are applicable to the present matter. The ratio laid down there is also applicable to the case of the complainant. Therefore, considering the above position on record corroborated with the rulings of the Hon. High Courts, I am of the opinion that, the order of dismissal of the complainant is not in good faith, but in colourable exercise of the employer's right, in utter disregard of the principles of natural justice and it is with undue haste and it is also shockingly disproportionate punishment given to the complainant by the respondents and therefore, it amounts to unfair labour practice under item 1(b), (f) and (g) of schedule IV of the M.R.T.U. & P.U.L.P. Act, 1971 on the part of the respondents. Though the complainant has also alleged the unfair labour practice under item 1(a), (c), (d), (e) of schedule IV of the MRTU & PULP Act, 1971 in terminating his services, I am of the opinion that, the complainant has not proved the said unfair labour practice. Thus, I hold that the complainant has proved that the respondents have engaged in unfair labour practice under item 1(b), (f), and (g) of schedule IV of the MRTU & PULP Act, 1971. (emphasis supplied)

29. As I have held that the respondents have committed the unfair labour practices while terminating the services of the complaint under item 1(b), (f) and (g) of schedule IV of the MRTU & PULP Act, 1971 as per normal rule, the complainant is entitled to reinstatement with continuity of service. Moreover, the respondents have not shown that the complainant is fully employed during the idle period, hence, in my opinion he is entitled

to full back wages from the date of filing of the complaint i.e. from 7.8.90 till realisation, though the order of dismissal is dt. 5.4.89 but there is delay in filing the complaint and the complaint is filed on 7.8.90.”

The Industrial Court in the Revision proceedings also has categorically held as follows:

“19. ... It has also mentioned in Sub-Clause (2) of 40 that the charge sheet should be given to the employee if he needs to be punished for the said charge. Admittedly in the present case according to the Petitioner, Respondent Corporation, complainant was not dismissed for any punishment but he was dismissed in view of provisions of Rule 39 of the Regulation 1954. It is pertinent to note that it was informed to the complainant by the Respondent itself in reply to his appeal that if he is acquitted hon’bly it is open for him to ask for reinstatement in the service. Therefore, during the pendency of the complaint before the Labour Court when the complainant was acquitted by the Criminal Court there is nothing wrong on the part of the Labour Court coming to the conclusion that the respondent has committed unfair labour practice in dismissing the complaint. In my opinion, the Respondent itself ought to have been reinstated the complainant as soon as it comes to know that complainant was acquitted by the Criminal Court but the Respondent Corporation has prolonged the matter making a grievance that he was not acquitted hon’bly. After going through the regulation of the Corporation it is not made clear regarding the definition of hon’bly acquittal. Hence there is nothing wrong on the part of the Labour Court in coming to the conclusion that the complainant was acquitted by the Criminal Court, hence the respondent Corporation should have reinstated the complainant.

20. It was argued by Mrs.N.R.Patankar that the ingredient of the Item 1(f) of Schedule IV of the M.R.T.U. and P.U.L.P. Act, 1971 are not proved by the complainant or the same were not attracted in the complaint. Therefore, there is apparent error on the part of record of the Labour Court in holding that item 1(f) of schedule IV is proved. I do not find any substance in the arguments advanced by the learned counsel Mrs.N.R.Patankar for revision petitioner because admittedly there is no departmental enquiry conducted by the respondent but a show cause notice was issued latter on it was withdrawn and without holding the enquiry the complainant was dismissed. Hence taking into consideration all the facts and circumstances of the case I am of the opinion that the order passed by the Labour Court is legal fair and proper. So also the findings of the Labour Court could not be said to be perverse. It was strongly argued by Mrs.N.R.Patankar that since the order passed by the Labour Court is improper, illegal and suffers from infirmity the matter needs to be remanded back to the Labour Court for reasonable order. Mrs.N.R.Patankar has not placed on record any reason why the matter should be remanded back to the Labour Court or what is the apparent error

committed by the Labour Court. The ratio of Judgments relied by Mrs.Patankar on a judgment reported in i) 1996 I LLJ P 540, ii) 1987 II LLR P 468, iii) 1985 I LLN P 223, iv) 1989 I CLR P 432 seems to be not applicable to the present case in hand since the facts are different. It was strongly argued by Mrs.N.R.Patankar that no reasoning for unfair labour practices are given by the Labour Court but after perusal of the judgment it is seen that there are certain reasoning given by the Labour Court which are sufficient to hold that the Respondent has committed unfair labour practices. Hence I do not find any reason to interfere in the order passed by the Labour Court. Since the order passed by the Labour Court does not warrant any interference, the revision application deserves to be dismissed.”

10. We are of the view that there is nothing on record which would persuade us to not accept the aforesaid findings. We, thus, observe that both the Labour Court, Nashik and the Industrial Court, Nashik on appreciation of evidence and the legal position, had rightly held that the Respondent had to be reinstated in view of the fact that he was acquitted.

11. Further the learned Single Judge in the impugned order has appropriately held that in the present case it was not that the Respondent was acquitted merely on benefit of doubt but was acquitted as the prosecution had not proved beyond reasonable doubt the case against the Respondent. Hence in the facts of the present case the acquittal has not been made merely on a benefit of doubt. The learned Single Judge has also come to the conclusion that the Sessions Court, which is a higher Court, has acquitted the Respondent honourably, even though the word ‘honourable’ as envisaged in Regulation 39 has not been specifically used. The learned Single Judge has rightly interpreted that the word ‘may’ in Regulation 39 cannot be construed as ‘shall’ and the discretion exercised by the Appellant taking the refuge of Regulation 39 cannot be arbitrary. In fact, the learned Single Judge has categorically held that no reasons were recorded by the Appellant for not reinstating the Respondent. We are of the view that the Appellant Corporation has

sought to place a hypertechnical interpretation on the word ‘honourable’ as envisaged in Regulation 39. This would, in our view, amount to general unfair labour practice on the part of the employers as held by the Courts below. This act of the Appellant squarely falls within the ambit of employer’s action not being in good faith and a colourable exercise of power exercised by the employer amounting to unfair labour practice.

12. Further the decisions as relied upon by the learned counsel for Appellant are not apposite to the facts of the present case and are rendered in a different facts and context. The decision of the Supreme Court in the case of **Union of India v. Methu Meda**¹ is rendered in the context of suitability of a candidate to a post concerned wherein the Supreme Court held as follows:-

“As discussed hereinabove, the law is well-settled. If a person is acquitted giving him the benefit of doubt, from the charge of an offence involving moral turpitude or because the witnesses turned hostile, it would not automatically entitle him for the employment, that too in disciplined force. The employer is having a right to consider his candidature in terms of the circulars issued by the Screening Committee. The mere disclosure of the offences alleged and the result of the trial is not sufficient. In the said situation, the employer cannot be compelled to give appointment to the candidate. Both the Single Bench and the Division Bench of the High Court have not considered the said legal position, as discussed above in the orders, impugned. Therefore, the impugned orders passed by the learned Single Judge of the High Court in Methu Meda v. Union of India- and the Division Bench in Union of India v. Methu Meda are not sustainable in law, as discussed hereinabove.”

13. It is therefore clear that in the facts of the present case the suitability of the candidate is not the issue which has fallen for consideration before this Court and further, in the case of Methu Meda (supra) the acquittal was given to him on the basis of a benefit of doubt and that further he wished to join the police force

¹ (2022) 1 SCC 1

wherein the requirement of impeccable character and integrity with no criminal antecedents determines a person's suitability for appointment as a policeman. This decision of the Supreme Court therefore has no application to the facts of the present case and would not help the Appellant to further its stand in any manner. Similarly, the decision of the Supreme Court in **State of Rajasthan v. Love Kush Meena**² has also been rendered in the context of suitability of appointment to the post of a constable in the Rajasthan Police Service and thereto the acquittal was not a clean or honourable acquittal, but an acquittal on benefit of reasonable doubt which was given to the Respondent therein. This decision of the Supreme Court also would not assist the Appellant Corporation as it has been rendered on a completely different fact pattern. Further the decision of the Supreme court in **Management of Reserve Bank of India, New Delhi Vs. Bhopal Singh Panchal**³ is rendered in the context of that the Respondent employee was acquitted on the basis of benefit of doubt and hence the Respondent employee was not given regularization of period of acquittal by the employer and he was not granted full pay and allowances for the period. In our considered view therefore the Appellant Corporation has miserably failed to make out a case for not reinstating the Respondent, and that too by adopting a hypertechnical view of the word 'Honourable' as envisaged in Regulation 39 of Staff Regulations.

14. In the light of the above discussion, in our clear opinion, no case has been made out by the Appellant to interfere in the present appeal. The appeal is accordingly rejected. No costs.

2 (2021) 8 SCC 774

3 (1994) 1 SCC 541

15. The Appellant shall pay the balance backwages to the Respondent within a period of six weeks.

(AARTI SATHE, J.)

(G.S.KULKARNI, J.)