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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6330 OF 2019

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C.G. Power & Industrial Solutions Limited,
(formerly known as Crompton Greaves
Limited), Kanjur Complex,
Kanjurmarg, Mumbai 400 042

... Petitioner

V/s.

Maruti Raghunath Mhatre,
Room No.1, Behind Deepak/Dawada
Medical Store, Hanuman Mandir Road,
Kanjur Village, Kanjurmarg (East),
Mumbai 400 042

... Respondent

Mr. Rahul Nerlekar for the petitioner.

Mr. Vijay P. Vaidya with Mr. Mahendra Avgekar, and Ms.
Shraddha Chavan for the respondent.

CORAM : AMIT BORKAR, J.

RESERVED ON : NOVEMBER 14, 2025

PRONOUNCED ON : NOVEMBER 28, 2025

JUDGMENT:

1. The present writ petition is filed under Articles 226 and 227 of the Constitution of India. It arises from the Judgment and Order dated 16 November 2018 passed in Revision Application No. 73 of 2013 by the Industrial Court, Thane. The Industrial Court set aside

the Judgment and Order Part II dated 1 April 2013 passed by the Labour Court, Thane in Complaint (ULP) No. 375 of 1997.

2. The facts leading to the filing of the present petition are stated as follows. Respondent No. 1 is a company engaged in the business of manufacturing transformers, fans, computers and electric motors. The complainant was a workman employed as a helper in the power winding department. He joined employment in 1980 as a permanent employee. His last drawn wages were Rs. 8,000 per month. On 20 February 1997, the respondent issued a charge sheet alleging that the complainant remained absent without leave or permission from 28 August 1996 until the date of the charge sheet. The complainant states that he was unwell in August 1996 and could not report for duty.

3. On 4 October 1996, the complainant reported for duty and submitted medical certificates. The respondent refused to take him back on duty. In September 1996, the respondent issued a letter asking him to appear before the company's medical officer on 7 October 1996. The complainant attended the clinic of Dr Suri on 7 October 1996 and produced his medical papers. The doctor only inspected the papers and did not examine him. After receiving the charge sheet, the complainant replied on 9 March 1997 setting out these facts. The respondent did not consider his reply. The complainant alleges that the enquiry was conducted in breach of principles of natural justice. He states that he was denied a proper opportunity to defend himself. He asserts that the findings of the enquiry officer are unsupported by material on record. Despite this, the respondent issued a dismissal order dated 11 June 1997

and terminated his services.

4. The complainant asserts that after recovery he made repeated attempts to resume duty. The respondent did not allow him to join for reasons created only to justify their stand. He alleges victimisation. He alleges action in bad faith. He alleges a colourable exercise of the employer's power. He alleges false accusations of unauthorised absence. He alleges complete disregard of natural justice. He states that the alleged misconduct, even if assumed, was minor in nature. On these grounds, he challenged the dismissal order dated 11 June 1997 and sought reinstatement with full back wages and continuity of service by filing Complaint (ULP) No. 375 of 1997 before the Third Labour Court, Thane.

5. The respondent opposed the complaint by filing a written statement. It is not disputed that the complainant was a permanent employee working as a helper. The respondent asserts that the complainant had a consistent record of remaining absent without permission and earlier disciplinary action had been taken. According to the respondent, he again remained absent without permission from 28 August 1996. He produced a medical certificate which the respondent found unsatisfactory. He was asked to appear before the company doctor on 7 October 1996. The respondent states that he went to the clinic but neither produced medical papers nor offered himself for check-up and left the clinic. Thereafter, he neither resumed duty nor submitted proper medical certificates. There was no response to the respondent's letter dated 17 January 1997 calling upon him to

resume work. The respondent then issued the charge sheet dated 20 February 1997. Since he denied the charges, a full enquiry was conducted. He was found guilty. His past record was also considered. A dismissal order dated 11 June 1997 was issued. The respondent maintains that the action was lawful and based on proved misconduct. The respondent denies all allegations of unfair labour practices and prayed for dismissal of the complaint.

6. The Labour Court dismissed the complaint. It held that the absenteeism period was from 28 August 1996 to 20 February 1997. The Labour Court held that the complainant did not produce any medical certificate for the period from 3 September 1996 to 11 September 1996. The Labour Court also held that the complainant failed to produce any document to show that he attempted to resume duty on 4 October 1996. The Labour Court further held that the burden was on the complainant to explain his absence between 4 October 1996 and 20 February 1997. Aggrieved by the dismissal of the complaint, the complainant filed Revision Application (ULP) No. 73 of 2013 before the Industrial Court. The Industrial Court by Judgment and Order dated 16 November 2018 allowed the revision application. It held that the petitioner engaged in unfair labour practices under Item 1(a) and 1(b) of Schedule IV of the MRTU and PULP Act. It set aside the order of dismissal. It directed payment of full back wages and consequential benefits to the complainant until his superannuation. The petitioner has therefore filed the present writ petition.

7. Mr Nerlekar, learned Advocate for the petitioner, referred to the chart placed on record with the writ petition. He submitted that the respondent workman was a habitual absentee and had remained absent for several days in previous years. He pointed out that warnings were issued to him on 23 November 1983 and 9 October 1990 for unauthorised absence. He was also suspended for two days following a charge sheet dated 28 August 1996 after completion of an enquiry into his unauthorised absence, as reflected in the letter dated 19 July 1996. He submitted that the Industrial Court failed to consider the major discrepancies in the medical certificates submitted by the respondent. One certificate records that he was fit to resume duty on 20 September 1996. Another certificate states that he was still under treatment for the same period.

8. He submitted that the respondent did not produce a single medical report, medical bill or any supporting document to substantiate his illness. He submitted that this fact was admitted by the respondent before the Labour Court. Therefore, the long period of absence on the ground of illness cannot be accepted. He submitted that though the respondent was directed to appear before the company medical officer on 7 October 1996 along with all medical prescriptions and reports, he did not produce any medical record or prescription. He only met the doctor and then continued to remain absent. He submitted that although the petitioner sent a letter asking the respondent to report for duty, he did not do so. According to him, this conduct clearly shows the respondent had no intention to resume duty. He pointed out that

the respondent remained absent from 4 October 1996 until the charge sheet dated 20 February 1997, and this fact is undisputed. He submitted that an employee who is prevented from resuming duty would ordinarily write letters to the employer, approach his Union or complain to statutory authorities. No such correspondence is produced by the respondent. According to him, this shows that the respondent made no effort to resume duty after 4 October 1996.

9. He submitted that the respondent's attendance before the company doctor on 7 October 1996 does not by itself prove willingness to join duty. He submitted that the Industrial Court ought not to have interfered with the decision of the Labour Court while exercising its limited revisional jurisdiction.

10. In reply, Mr Vaidya, learned Advocate for the respondent, submitted that the respondent had explained his absence by producing medical certificates covering the period from 27 August 1996 to 23 January 1997. He submitted that the only unexplained period is from 23 January 1997 to 20 February 1997. He submitted that the respondent visited the company doctor on 7 October 1996. According to him, this shows that he was ready to resume duty and had submitted a letter and certificate for that purpose. He submitted that the respondent was nevertheless not allowed to join duty. He relied on the admission of Mr Vishal Shrivastava, a witness for the petitioner, who stated in cross examination that he was aware of the alleged misconduct and that the respondent had approached the company doctor on 7 October 1996. He submitted that the Labour Court in paragraphs 13, 14 and 15 wrongly held

that the complainant failed to prove that he presented himself for duty on or after 4 October 1996. He submitted that this placed the burden on the wrong party. He submitted that once the enquiry was held to be unfair and improper at the Part I stage, the Labour Court erred in casting the burden on the complainant under the test of preponderance of probabilities. He submitted that the petitioner failed to establish misconduct of absenteeism on the basis of evidence placed before the Labour Court. He submitted that the Industrial Court rightly exercised its jurisdiction under section 44 of the MRTU and PULP Act. He prayed for dismissal of the writ petition.

11. I have considered the rival submissions and examined the material placed on record. The central issue is whether the petitioner has proved the misconduct of unauthorised absenteeism and whether the Industrial Court was justified in setting aside the order of dismissal.

12. The respondent workman remained absent from 28 August 1996 to 20 February 1997. This fact is not in dispute. The real issue is whether this long spell of absence has been satisfactorily explained by reliable material. The respondent seeks to justify his absence on the strength of a few medical certificates placed on record. The petitioner, however, rightly points out that these certificates do not speak in one voice.

13. One certificate states that the respondent was fit to resume duty on 20 September 1996. Another certificate, covering the same period, indicates that he continued to be under medical treatment

and was unfit for work. These two versions cannot stand together. A medical document must reflect a consistent and truthful account of a person's health. When the certificates contradict each other on a material aspect, they lose their evidentiary value. The respondent has not offered any explanation for this contradiction. He has not shown why two certificates issued for the same period express two different conclusions. In the ordinary course, a workman who genuinely suffers from illness would maintain clear and consistent medical records. If such records appear doubtful or inconsistent, the Court is entitled to examine the explanation with greater care. These inconsistencies in the medical papers cast a serious cloud on their genuineness. They weaken the claim that the absence was compelled by illness. In the absence of a credible explanation from the respondent, the certificates cannot be accepted as reliable proof for justifying the prolonged absence from duty.

14. The respondent did not bring on record even a single medical report, bill or prescription in support of the illness which he claims kept him away from duty. He himself admitted this position before the Labour Court. When a workman asserts that he remained ill for almost six months, the law expects him to place before the employer and before the Court some material which can lend assurance to his version. Illness is a fact within the special knowledge of the workman. It is for him to produce documents which ordinarily accompany medical treatment. The complete absence of such material creates a serious doubt about the genuineness of the plea. A person who is genuinely under treatment for a long period would, in the natural course, possess

medical prescriptions, investigation reports, receipts for purchase of medicines or at least a contemporaneous certificate issued at regular intervals. The respondent has not produced any such material. This deficiency goes to the root of the explanation furnished by him. It weakens his case and renders his plea of prolonged sickness doubtful. In these circumstances, the Labour Court was justified in viewing the explanation of the respondent with caution and in holding that the burden of establishing the cause of absence remained unfulfilled.

15. The respondent was directed to appear before the company doctor on 7 October 1996 with all medical documents. He visited the doctor but did not produce the medical papers. He did not allow the doctor to examine him. He left the clinic. This conduct does not match the conduct of a person keen to resume duty.

16. The petitioner sent a letter calling upon the respondent to report for duty. The respondent did not act upon it. For a workman who says that the employer prevented him from joining duty, some correspondence, some protest or some complaint to the Union or authorities is expected. He has placed no such material on record. Absolute silence for months creates a strong presumption that he was not interested in duty.

17. The respondent's counsel argues that once the enquiry was held to be unfair in Part I, the burden shifted to the employer to prove misconduct. This proposition is correct. However, when both sides lead evidence before the Labour Court, the Court has to assess the evidence as a whole. The employer led evidence to show

that the respondent remained absent without justification. The respondent did not lead convincing evidence to explain his absence.

18. The Labour Court appreciated the evidence in detail and found that the respondent failed to justify his absence for major periods. These findings are based on evidence and cannot be termed perverse. The Industrial Court, in its revisional jurisdiction, could have interfered only if the Labour Court's findings were illegal, perverse or unsupported by evidence. The Industrial Court has not recorded any such reason. It re-assessed the evidence as if sitting in appeal. This is contrary to the settled limits of revisional jurisdiction.

19. The Industrial Court also recorded a finding of unfair labour practice under Item 1(a) and 1(b) of Schedule IV. There is nothing on record to support a conclusion that the employer acted in bad faith or victimised the workman. The material shows that the employer issued warnings in the past and conducted enquiries whenever the respondent remained absent. The employer followed the procedure available in law. In these circumstances, the finding of unfair labour practice is not sustainable.

20. The Labour Court's order reflects proper appreciation of facts and evidence. The Industrial Court exceeded its jurisdiction in disturbing a reasonable finding. Interference is therefore warranted.

21. Hence, following order is passed:

- (a) The Judgment and Order dated 16 November 2018 passed by the Industrial Court, Thane in Revision Application (ULP) No. 73 of 2013 is quashed and set aside.
- (b) The Judgment and Order dated 1 April 2013 passed by the Labour Court, Thane in Complaint (ULP) No. 375 of 1997 dismissing the complaint is restored.
- (c) The writ petition is allowed.
- (d) Rule is made absolute in the above terms.
- (e) No order as to costs.

(AMIT BORKAR, J.)