

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7737 OF 2013

Baby Madhukar Gadekar
Age 50 years, Occ. Service,
R/o Takali Bhan,
Tq. Shrirampur, Dist. Ahmednagar ..Petitioner

VERSUS

1. Superintending Engineer,
Maharashtra State Electricity Board,
Vidyut Bhawan, Station Road,
Ahmednagar.

2. Executive Engineer,
Maharashtra State Electricity Board,
Sangamner Division, Sangamner,
District Ahmednagar.

3. Assistant Engineer,
Maharashtra State Electricity Board,
Rahata Sub Division, Rahata,
District Ahmednagar. ..Respondents

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Advocate for Petitioner : Shri Taur Mahesh S.
Advocate for Respondents 1 & 2 : Shri Deshpande Dhananjay P.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: June 17, 2015
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ORAL JUDGMENT :-

1. Heard.

2. Rule.

3. Rule is made returnable forthwith, by consent of the parties and the petition is taken up for final disposal.

4. The respondents - Management had issued a charge sheet dated 23.4.2004, levelling charges against the petitioner. The petitioner replied to the said charge sheet on 27.8.2004, which is practically after four months of the issuance of the charge sheet. By a final order dated 25.4.2005 the proposed punishment of dismissal from service was withdrawn in the light of the order passed by the Industrial Court, dated 4.1.2005.

5. The petitioner was initially terminated by order dated 29.4.2004, which was challenged before the Labour Court in Complaint (ULP) No. 30 of 2004. By an interim order dated 16.6.2004, the Labour Court granted interim relief to the petitioner. The Management preferred a Revision (ULP) No. 43 of 2004, which was dismissed by the Industrial Court on 26.7.2004. The Writ Petition No.4888 of 2004, preferred by the Management before this Court, was disposed off without causing any interference in the orders passed by the Labour Court and the Industrial Court.

6. It is not in dispute that Complaint (ULP) No.30 of 2004 was allowed by the Labour Court vide judgment and order dated 9.4.2012. The Management was directed to reinstate the petitioner in service with continuity and full back wages.

7. The issue raised before this Court is as regards the impugned judgment of the Industrial Court dated 5.12.2011, delivered in Complaint

(ULP) No.69 of 2005, wherein, the petitioner had questioned the final order dated 25.4.2005. It is not in dispute that the petitioner was awarded the punishment of stoppage of one annual increment till the age of retirement and the period of suspension was converted into punishment. The Industrial Court, vide judgment dated 5.12.2011, partly allowed the Complaint by maintaining the punishment of stoppage of one increment and set aside the punishment of converting suspension into order of punishment.

8. The petitioner has alleged bias and prejudice against the Management, in passing the order of punishment dated 25.4.2005. It is submitted that the charges levelled upon the petitioner were an outcome of the complaint made by the petitioner against members of the Management. It is, therefore, canvassed that the said punishment was by way of a retaliatory action by the Management.

9. Shri Taur, learned Advocate, therefore, vehemently submits that false and baseless charges were levelled upon the petitioner in retaliation to the complaint of sexual harassment that was lodged against an officer of the Management, which was lost sight of by the Industrial Court. It is, therefore, submitted that the findings and conclusions of the Industrial Court deserve to be termed as perverse and the impugned judgment therefore, deserves to be set aside.

10. Shri Deshpande, learned Advocate appearing on behalf of the Management submits that though the charges levelled upon the petitioner

are quite serious, it was decided to give her an opportunity to improve her conduct. The Management could have taken a serious view but for the fact that the Complainant has two daughters and one son and is rendered a widow. She works as a Peon and the Management expects the petitioner to reform herself and improve her behaviour.

11. Shri Deshpande has taken me through the impugned judgment which is based upon oral and documentary evidence. About nine charges were levelled upon the petitioner. An opportunity of hearing before imposing a minor punishment was afforded to her and after considering her reply, the Management has passed the order of imposing a minor punishment.

12. He further submits that the Industrial Court has partly allowed the Complaint and set aside the punishment of including the period of suspension of the petitioner as a part of the punishment. As such, the Industrial Court has modified the punishment and maintained the order of the Management directing stoppage of one annual increment permanently. He clarifies that the Management had not challenged the said judgment in this Court.

13. Considering the fact situation emerging from the record, I do not find that the impugned judgment could be termed as being perverse or unsustainable. The Industrial Court has assigned proper reasons in support of its conclusions which are based upon oral and documentary evidence placed on record. The Management has considered the reply of the

petitioner in the light of the charges levelled upon her and had awarded a punishment which has been further scaled down by the Industrial Court. As such, I do not find that the impugned judgment calls for any interference.

14. The petition *sans* merits and is, therefore, dismissed. Rule is discharged. No order as to costs.

(RAVINDRA V. GHUGE, J.)

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akl/d