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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.1871 OF 2015

Superintending Engineer,
Maharashtra State Electricity Distribution
Company Limited,
Sahyadri Building, Parijat Colony,
Deopur, Dhule.

...PETITIONER

-VERSUS-

Vishnu s/o Yamaji Bansode,
Age : 57 years, Occ : Service,
R/o 19, Kalikadevi Nagar,
Golibar Tekadi Road,
Deopur, Dhule,
Tq. & Dist.Dhule.

...RESPONDENT

.....

Mr.Paithankar Prakash B., Advocate for the Petitioner.
Mr.Patil Shrikant S., Advocate for the Respondent.

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 07th July, 2015

Oral Judgment:

1 Rule. Rule made returnable forthwith and heard finally by the
consent of the parties.

2 I have heard Shri Paithankar and Shri Patil, learned Advocates

appearing for the Petitioner and the Respondent, respectively, for quite sometime. The issue that emerges from this petition is very short.

3 The Respondent/ Employee herein suffered an order of punishment at the hands of the Petitioner/ Employer, by which two increments have been permanently stopped by way of punishment.

4 It is not in dispute that the Petitioner/ Employer conducted a departmental enquiry on the basis of the Rules applicable before passing the impugned order of punishment dated 19.06.2006. The Respondent preferred Complaint (ULP) No.11/2009 before the Industrial Court for challenging the impugned punishment under Section 28(1) r/w Item Nos.5, 9 and 10 of Schedule IV of the MRTU & PULP Act, 1971.

5 It is also not in dispute that the Respondent / Employee has assailed the enquiry on the ground of non observance of the principles of natural justice and has also assailed the findings of the Enquiry Officer, as being perverse.

6 The Industrial Court, after a full fledged trial in the said complaint, has arrived at a specific conclusion in paragraph 12 that “.....it *can be said that there is breach of principles of natural justice and the*

7 The Industrial Court has framed the following issues:-

- 8 It is not in dispute that the issues as regards (i) whether, the Complainant/ Workman proves that the enquiry is vitiated on account of non observance of the principles of natural justice and (ii) whether, the Complainant/ Workman proves that the findings of the Enquiry Officer are perverse, have not been framed.

9 This Court, in the case of *MSRTC, Beed v/s Syed Saheblal Syed*
Nijam reported in **2014 (III) CLR 547**, has concluded that the Labour
 Court or the Industrial Court cannot interfere with the enquiry and the

findings of the Enquiry Officer unless the two issues as noted above are not framed and are not decided peremptorily to constitute its Part-I order.

10 So also, this Court has concluded in the matter of *Maharashtra State Cooperative Cotton Growers Marketing Federation Ltd. v/s Vasant Ambadas Deshpande* reported in **2014(1) CLR 878 : 2014(3) Mh.L.J. 339**, that the said two issues are to be decided not on the basis of any extraneous or additional evidence adduced before the Labour Court or the Industrial Court, but on the basis of the entire enquiry proceedings and the conclusions drawn by the Enquiry Officer on the basis of the oral and documentary evidence recorded in the Enquiry Report.

11 It is apparent, in the instant case, that the Industrial Court has neither framed the said two issues nor has it complied with the said procedure. However, the contentions advanced before the Industrial Court and the reasons adduced by it, would indicate that neither of the parties had assisted the Industrial Court in pointing out the crystallized position of law that the issues as regards the enquiry and the findings of the Enquiry Officer are required to be decided peremptorily.

12 As such, in my view, the impugned judgment and order dated 07.03.2014 is unsustainable. The said judgment and order is, therefore,

quashed and set aside. Complaint (ULP) No.11/2009 is remitted back to the Industrial Court, Dhule for framing of the said two issues as noted above and for permitting the litigating sides to address the Industrial Court on the said two issues in the light of the judgments of this Court in the matters of MSRTC, Beed and Maharashtra State Cotton Growers' Federation (supra).

13 Complaint (ULP) No.2009 is remitted back to the Industrial Court, separate notice to the parties need not be issued by the Industrial Court since the litigating sides shall appear before the Industrial Court on 24.07.2015.

14 As the Respondent/ Employee has superannuated on 30.07.2014, the Industrial Court shall decide Complaint (ULP) No.11/2009 as expeditiously as possible and preferably on or before 02nd January, 2016. The litigating sides are precluded from seeking adjournments on unreasonable or frivolous grounds.

15 Rule is made partly absolute in the above terms.

(RAVINDRA V. GHUGE, J.)