

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3635 OF 2015

Pune Zilha Sahakari Doodh Utpadak
Sangh Limited

.....Petitioner

: V/S :

Shri. Chandrakant Damodar Zanje

.....Respondent

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Mr. J. Shekhar i/by. J. Shekhar & Co., Advocate for the petitioner.

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Coram :- Smt. R.P. SondurBaldota, J.

7th July, 2015.

P.C. :-

1). This petition challenges the concurrent findings of the Labour Court and the Industrial Court as regards the termination of the respondent from service on the ground of misappropriation of money. It is the case of the petitioner that the respondent was working as a Clerk with the petitioner on the monthly salary of Rs.750/-. He was chargesheeted on 7th September, 1992 with the allegation of misappropriation of Rs.80,000/-. He had initially submitted his explanation on 7th September, 1982. His explanation was ignored and enquiry was initiated against him. Thereafter, practically no enquiry was

conducted by the Enquiry Officer and no opportunity had been given to him for placing his defence. He was neither informed about the dates of the enquiry nor given opportunity to cross-examine any witness. On termination of his services, the respondent filed Complaint (ULP) No. 53 of 1988 under Section 28 read with Items No.1(a), 1(b), 1(d) of Schedule-IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act ("MRTU & PULP Act" for short)

2). The petitioner appeared in the complaint proceedings and filed its written statement barely denying the allegations of the petitioner. It neither gave the details of the enquiry conducted by its Officer nor of the allegation of misappropriation. After considering the entire material on record including the evidence of the witnesses recorded before it, the Labour Court, held that the enquiry conducted by the petitioner was illegal, unfair and improper. The petitioner had failed to establish the allegation of misconduct and it had engaged in unfair labour practice. The Labour Court by its order dated 31st December, 2008 allowed the complaint and directed the petitioner to reinstate the respondent in service with 50% backwages and continuity of service within 2 months from the date of the order. The petitioner was also given an option to pay compensation of Rs.50,000/- in lieu of reinstatement. The petitioner, however, opted to challenge the order by preferring Revision Application (ULP) No. 121 of 2009 in the Industrial Court, Pune. By the

order dated 8th November, 2014 the Revision Application was dismissed with costs by upholding all the findings of the Labour Court.

3). There is no dispute that the written statement filed by the petitioner was devoid of details of the allegations of misappropriation and of the enquiry conducted against the respondent. The petitioner also did not lead any evidence before the Labour Court. Mr. Shekhar, the learned Advocate appearing for the petitioner submits that, the petitioner was unable to produce the material documents before the Court as the same were with another Advocate of the petitioner who was looking after the criminal proceedings initiated by the petitioner for misappropriation. Therefore, according to him, the petitioner ought to have been given an opportunity to produce the documents so as to meet the ends of justice. I find no substance in the submission advanced because it was perfectly possible for the petitioner to secure the documents from their own Counsel appearing in another matter and produce the same before the Labour Court. Besides, it cannot be forgotten that the petitioner had neither pleaded nor disclosed the documents during the course of hearing of the complaint before the Labour Court. Thus, there is no infirmity whatsoever in the orders passed by the Labour Court and the Industrial Court. Hence, the petition is dismissed.