

JPP

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

WRIT PETITION NO. 8177 OF 2015

Mr. Dada Kerba Gaikwad.

... Petitioner.

V/s.

Pune District General Co-op.

... Respondent.

Mr. Rahul Shivaji Kadam for the Petitioner.

None for the Respondent.

CORAM : N.M. JAMDAR, J.

DATE : 30 NOVEMBER, 2015.

P.C. :-

The Petitioner challenges the orders passed by the Labour Court dated 19 June 2008 and the Industrial Court, Pune dated 17 November 2014 dismissing the Application (BIR) No. 10 of 2005 and Appeal (BIR) No.4 of 2008 respectively.

2. The Petitioner was working as a Cashier with the Respondent – Bank on 19 March 2004. It was noticed that there was shortage of cash of Rs.1,91,420/-. The Petitioner was proceeded with departmentally and after holding an enquiry his services were terminated. Thereupon, the Petitioner filed the above mentioned Application and Appeal which have been dismissed by the impugned order.

3. The learned Counsel for the Petitioner submitted that there was delay in taking action against the Petitioner. Both the Court have considered this argument by holding that the delay was caused due to non co-operation with the Petitioner during the enquiry. As far as misconduct is concerned, the amount of Rs.1,91,420/- in the year 2004 was a substantial amount and it is difficult to believe that it was a mere oversight on the part of the Petitioner. When the Petitioner was called upon to explain he has redeposited only an amount of Rs.41,420/-.

4. Both the Courts have taken a view that complete non-explanation on the part of the Petitioner leads to an inference that there was a mis-appropriation on his part. The approach of both the Courts who has considered evidence on record including the enquiry, cannot be termed as perverse. As regard the argument of the learned Counsel for the Petitioner that his services were terminated by the Manager which was not proper, the Industrial Court has observed that the Manager has only signed the order of termination pursuant to Resolution passed by the Executive Committee.

5. Therefore, there is no error in the impugned orders. Writ Petition is accordingly rejected.

(N.M. JAMDAR, J.)