

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.3024 OF 2014

Shri Ravindra Kakadia Atkari
Age 40, At Bahanpur, Post. Somata,
Indian Inhabitant of Thane
Tal. Palghar,
Dist. Thane-401 403 .. Petitioners

V/s

The General Manager
BEST Undertaking
BEST House,
Colaba, Mumbai-400 005. .. Respondent.

Mr. Shailesh S. Pathak, for Petitioner.
Ms. Kavita Anchan i/b M.V. Kini & Co., for Respondent.

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

Date : 27th April, 2015

P.C.

1 Rule. Rule made returnable forthwith. Heard
advocates for both sides.

2 The petitioner was employed as a Bus Driver with
the respondent Undertaking. He has filed present petition to

challenge the orders dated 15th October, 2012 and 22nd April, 2013 in Complaint (ULP) No.30 of 2012 and the order dated 21st June, 2014 in Revision Appln. (ULP) No.115 of 2013. The order dated 15th October, 2012 decides the issues, whether the enquiry held against the petitioner is fair and proper and whether the finding of the Investigating Officer is perverse. The order answers both the issues in favour of the respondent. Mr. Pathak the learned advocate for the petitioner submits that the order of the Labour Court discloses total non-application of mind. While petitioner was charge-sheeted under Clauses 20(f) and 20(k) of the Standing Order, the entire consideration by the Labour Court has been for misconduct under Clauses 20(i) and 20(j). The other infirmity in the order is the disparity between the operative part and the reasons stated in the order therefor. At paragraph-7 of the order, the learned judge records that the conclusion arrived at by the Enquiry Officer is perverse, it being without justification. But in the operative part of the order, the learned judge records that finding of the Investigating Officer is

not perverse. Thus, the order dtd. 15th October, 2012 being part-I of the Award could not have been sustained. Consequently, the subsequent Part II Award dated 22nd April, 2013 deciding the propriety of the punishment given to the petitioner also could not have been sustained.

3 The petitioner had challenged the orders by filing Revision Application before the Industrial Court. His Revision Application was dismissed by the order dated 21st June, 2014 without taking into account above mentioned infirmities in the order.

4 Considering the total non-application of mind by the Labour Court, it is necessary to set aside the orders impugned in the petition and remand the matter back to the Labour court for fresh hearing.

5 The petition is allowed in terms of prayer clause -(a). The matter is remanded back to the Labour Court for fresh

consideration.

6 The parties to appear before the Labour Court on 08th June, 2015. The Labour Court shall decide the complaint within a period of one year thereafter.

(Smt. R.P. SondurBaldota, J.)