

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

Civil Application (C.A.W.) No.63 of 2015 in
Writ Petition No.2546 of 2014 (D)
(State Bank of India, Nagpur .vs. The Central Government Industrial
Tribunal Cum Labour Court, Nagpur)

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's Orders.

Court's or Judge's orders.

Mr.S.N.Kumar, Adv. for the applicant.
 Mr.S.T.Sahastrabuddhe, Adv. for respondent no.2.

CORAM : A.P.BHANGALE, J.

DATED : 22nd JUNE, 2015.

Heard.

Civil Application No.63 of 2015 is filed by the petitioner/applicant for speaking to minutes seeking clarification in respect of the Judgment and Order dt.14.10.2014 passed by this Court. Learned Counsel for the applicant referred the ruling in the case of General Secretary, General Kamgar Union .vs. Nobel Paint and Varnish Co. Ltd. reported in 2010 (6) Mh.L.J. 309 to submit that, in para no.8, this Court has observed thus :

“ This convoluted reasoning of the Tribunal is, to say the least, perverse and beyond comprehension. Firstly, the Tribunal ought to have framed proper issues. It should have delivered Award Part-I by concluding as to (i) whether the enquiry held

against the workman was fair and proper and (ii) whether the findings of the enquiry officer were perverse. Instead of following this procedure, the Tribunal has decided all issues, including whether the workmen are entitled to any relief at all in view of the provisions of section 11-A together. It is now well settled by several judgments of the Supreme Court that it is necessary for the Tribunal to first decide the validity of the enquiry and perversity of the findings of the enquiry officer before arriving at any decision regarding the punishment with reference to section 11-A of the I.D. Act. ”

Thus, the Tribunal is required to frame proper issues so as to deliver Award Part-I by concluding as to whether the enquiry held against workmen concerned was fair and proper and secondly, whether findings of the enquiry officer were perverse. It is for the Tribunal to decide first as to whether the enquiry was valid and then perversity of findings of the enquiry officer before arriving at the decision regarding punishment with reference to Section 11-A of the Industrial Dispute Act.

The learned Counsel appearing on behalf of the applicant as well as the respondents have no dispute that Part-I of the departmental enquiry indicates that the principles of natural justice were

followed. The dispute is only regarding whether the findings recorded by the enquiry officer were perverse or not. Therefore, it is submitted that the rival parties may be given an opportunity to approach the Tribunal concerned to record the finding as to whether the findings of the enquiry officer were perverse or not. It is not necessary for the Tribunal to decide the issue as to whether the principles of natural justice were followed or not.

My attention is also invited to the Judgment dt.14.10.2014 rendered by this Court, which is under consideration - with particular reference to para 11, wherein the observations from the rulings of **Bharat Forge Company Ltd. vs. A.B.Zodge and another** reported in AIR 1996 SC 1556 in respect of the procedure in domestic enquiry were reproduced. Considering the true aspects, therefore, when there is no dispute regarding the principles of natural justice being admittedly followed, the only question for the Tribunal remains as to record findings regarding perversity on the basis of evidence to be adduced by the rival parties. It is clarified in respect of Para nos. 15 and 16 in the Judgment dt.14.10.2010 in Writ Petition No.2546 of 2014 that the Tribunal in the present case need not decide the question as to whether the principles of natural justice were followed. It has to restrict itself to the findings as to whether the enquiry officer erred on the ground of perversity. The

evidence to be adduced by the parties be limited to the question of perversity of findings.

Needless to add that the rulings referred to by this Court in the Judgment be followed in true letter and spirit by the enquiry officer. If decision regarding perversity, if any, is given by the Tribunal against the Management or employer, it may be challenged by them in accordance with law. The Tribunal to complete the enquiry expeditiously and as early as possible.

The Civil Application is disposed of.

JUDGE

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