

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

WRIT PETITION NO. 3841 OF 1995

Rajdhar s/o Ananda Patil,
Age 45 years, Occu. Nil,
R/o. Kailashnagar, Bhadgaon Road,
Chalisgaon, Dist. Jalgaon.

... **PETITIONER**
(Orig. Complainant)

VERSUS

1. The Manager,
Maharashtra State Co-Operative
Agriculture & Rural Development
Bank, Jalgaon. Dist : Jalgaon.
2. The learned Member
Industrial Court Nasik, Dist : Nasik.
3. The learned Judge,
Labour Court, Jalgaon. Dist : Jalgaon.

... **RESPONDENTS**

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Mr. P. R. Patil, Advocate for Petitioner.

Mr. L V. Sangit, h/f Mr. V. J. Dixit, Senior Counsel for Respondent No.1.

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CORAM : **P. R. BORA, J.**

DATE : 23rd June, 2016.

ORAL JUDGMENT:

. Heard the learned counsel appearing for parties.

2 The present Petitioner was dismissed from the services of the Respondent as a result of domestic enquiry conducted against him and the punishment imposed in the said domestic enquiry. In the domestic enquiry, it was the charge against the present Petitioner that he had come to office under the influence of liquor and disturbed the discipline in the office.

3 The punishment of dismissal was challenged by the Petitioner by filing Complaint (ULP) No.107 of 1988 before the Labour Court at Jalgaon. The learned Labour Court vide judgment dated 15th February, 1993 allowed the complaint so filed by the Petitioner and directed his reinstatement in services with continuity of service but without back-wages. The order passed by the Labour Court was challenged by the present Respondent by filing Revision (ULP) No.132 of 1993. The present Petitioner had also challenged the order passed by the Labour Court in so far as refusal of relief of back-wages. The revision filed by present Petitioner was numbered as Revision (ULP) No.133 of 1993. Both the aforesaid revision applications were commonly heard by the Industrial Court and the revision application filed by the Respondent was allowed, whereas, the revision application filed by the Petitioner was dismissed. Against

said order, the Petitioner has filed present petition before this Court.

4 Heard Shri Patil, learned counsel for the Petitioner. The learned counsel submitted that the learned Labour Court has rightly set aside the order of dismissal, which ought not have been interfered by the Industrial Court in its revisional jurisdiction. The learned counsel submitted the incident based on which the departmental proceedings were initiated against the present Petitioner, a criminal prosecution was also instituted against the Petitioner and he got acquitted of the charges alleged against him and as such, the reinstatement was rightly directed by the Labour Court.

5 Opposing the submissions advanced on behalf of the Petitioner, Shri Sangit, learned counsel for the Respondent submitted that the acquittal of present Petitioner in criminal case was the result of not taking proper steps by the prosecution in examining even the investigating officer and necessary panch witnesses, whereas in the departmental proceedings, sufficient evidence was adduced to prove the misconduct of the present Petitioner. The learned counsel submitted that the acquittal from a criminal case may not have any impact on the findings recorded in the departmental proceedings. The learned counsel, therefore, prayed for dismissal of the petition.

6 After having considered the submissions advanced by the learned counsel for the parties and on perusal of the judgments of the Labour Court as well as the Industrial Court, there appears no substance in the petition filed by the Petitioner. The order passed by the Labour Court in any way cannot be supported for the reason that the acquittal in a criminal case cannot be held to be a ground for setting aside the findings recorded in a departmental proceedings. It need not to be stated that the nature of evidence required in both the proceedings is altogether different. In criminal case where the offence is to be undoubtedly proved, in the departmental proceedings a charge can be proved on the principles of preponderance of probabilities. Moreover, as has been rightly submitted by the learned counsel for Respondent that since no evidence was adduced in the criminal case against the Petitioner, there was no option before the Criminal Court except to record acquittal of the Petitioner, whereas in the departmental proceedings, sufficient evidence was adduced on the basis of which a conclusion was recorded by the Enquiry Officer holding the Petitioner guilty for the charge leveled against him. It has to be considered that the charge against the Petitioner was that of consuming liquor while on duty and disturbing administration and

discipline in the office.

7 In view of the fact that no fault can be found with the procedure adopted while conducting the departmental enquiry and having regard to the seriousness of allegation against the Petitioner, punishment imposed also cannot be said to be inappropriate, it does not appear to me that the Industrial Court has committed any error in setting aside the order passed by the Labour Court. The writ petition is devoid of any substance and deserves to be dismissed. It is accordingly, dismissed. Rule discharged.

[P. R. BORA, J.]

ndm