

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3234 OF 2015

SUSHILA RAMCHANDRA BHANDARI

PETITIONER

VERSUS

THE COMMISSIONER AND OTHERS

RESPONDENTS

Mr.Rahul Deshmukh h/f Mr.S.V.Natu, Advocate for the petitioner.

Mr.V.S.Badakh, AGP for respondent No.1.

Mr.S.T.Shelke, Advocate for respondent No.2.

Mr.P.V.Barde, Advocate for respondent No.3.

Mr.R.R.Karpe, Advocate for respondent No.4.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 06/01/2016

PER COURT :

1. The petitioner is aggrieved by the judgment dated 28/08/2014 delivered by the Industrial Court, Ahmednagar by which Complaint (ULP) No.71/2008 filed by the petitioner has been dismissed.

2. I have heard the learned Advocates for the litigating sides. In view of the order that I propose to pass, I am not required to advert to their entire submissions, except one ground raised by the petitioner that he was not given an opportunity to cross examine two witnesses who have deposed below Exhibit "O-16" and "O-17".

3. This Court, by its order dated 28/02/2014, had remitted the complaint to the Industrial Court for enabling the parties to lead additional oral and documentary evidence. Pursuant thereto, two witnesses on behalf of the respondents namely Mr.Sangade Tukaram Laxman and Smt.Kalpana Jaising Garute had filed their affidavits on 21/08/2014 below Exh."O-16" and "O-17". The certified copy of the roznama pertaining to the said complaint indicates that on 21/08/2014, the petitioner filed an application Exh.U-28, praying for copies of the affidavits Exh."O-16" and "O-17".

4. The Industrial Court adjourned the matter to 26/08/2014 for the purpose of the respondents filing their say on application Exh.U-28. On 26/08/2014, the petitioner moved three applications Exh.U-29, U-30 and U-31 praying for directions for producing additional documents which were in the custody of the respondents as the respondents had selectively filed documents which they felt would support their case. The Industrial Court adjourned the matter for delivering its judgment on 28/08/2014 without passing any order on application Exhs. U-28, Exh-29, Exh-30 and Exh-31.

5. The grievance of the petitioner, therefore, is that without being given an opportunity to cross examine the two witnesses on Exhibit

O-16 and O-17 and without the relevant documents in the custody of the respondents, being produced, the Industrial Court has delivered its judgment since it was directed to decide the complaint on or before 30/08/2014.

6. Though the learned Advocates for the respondents have strenuously opposed this petition, it is apparent that affidavits were filed on behalf of the respondents on 21/08/2014 below Exh.O-16 and O-17 and the petitioner was not granted an opportunity to cross examine the said witnesses. Similarly, the documents in the custody of the respondents were demanded by the petitioner and the said application has not been decided by the Industrial Court.

7. In the light of the above, since the principles of natural justice appear to have been violated, this petition is partly allowed. The impugned judgment of the Industrial Court dated 28/08/2014 is quashed and set aside and Complaint (ULP) NO.71/2008 is remitted back to the Industrial Court with the following directions :-

- [a] The Industrial Court shall ensure that the petitioner / original complainant is granted an opportunity of cross examining the affiants who have filed their affidavits below Exh."O-16" and "O-17".

- [b] The Industrial Court shall decide all the pending applications before hearing the learned Advocates by way of final arguments.
- [c] The Industrial Court shall thereafter decide the complaint on its own merits and without being influenced by its observations set out in the earlier judgment dated 28/08/2014.

(RAVINDRA V. GHUGE, J.)