

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 3151 OF 2015

**CHIEF EXECUTIVE OFFICER, ZILLA PARISHAD, JALGAON AND
ANOTHER
VERSUS
SHOBHA TRIMBAK PATIL**

...

Advocate for Petitioners : Shri Manoj Shinde h/f Shri Goyanka M.K.

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 05th December, 2016

Per Court:

1 Despite service of the court notice, no appearance has been entered by the Respondent/ Employee.

2 In my order dated 15.02.2016, I had observed in paragraphs 3, 4, 5 and 6 as under:-

- "3. *I find that the conclusions of the Labour Court in its judgment dated 03.04.2010 are based on the Labour Court's observations that the respondent/ original complainant has accepted all the charges levelled upon him. From the judgment of the Labour Court, I do not find any specific statement made by the respondent/ complainant in the evidence recorded before the Labour Court that she has specifically admitted the charges levelled upon her.*
4. *In the light of the above, I find it necessary to call for the record and proceedings from the Labour Court, Jalgaon in Complaint (ULP) No.3/2006 only to scrutinize the oral and documentary evidence so as to find out whether, the respondent/ complainant had*

- factually admitted the charges levelled upon her before the Labour Court or whether the conclusion of the Labour Court to that effect is erroneous.*
5. *Call for record and proceedings in Complaint (ULP) No.3/2006 decided on 03.04.2010 from the Labour Court, Jalgaon.*
 6. *Stand over to 11.03.2016."*

3 The record and proceedings in Complaint (ULP) No.3/2006 have been perused by me today with the assistance of the learned Advocate for the Petitioner. None has appeared for the Respondent.

4 The basis on which the Labour Court has concluded that the Respondent has unequivocally accepted all the charges levelled upon her, is the reply dated 23.08.2005 which is the part of the record and proceedings. I have gone through the said reply threadbare. I do not find from any angle that the Respondent has accepted the guilt, admitted the charges levelled upon her and has tendered an apology. The Labour Court in paragraph 20 of it's judgment dated 03.04.2010 has concluded that the reply submitted by the Respondent/ Employee would indicate that she has accepted the charges levelled upon her. Based on such conclusions, the complaint was dismissed.

5 The Industrial Court, while dealing with Revision (ULP) No.21/2011 filed by the Respondent/ Employee, has taken into account

the fact that the Respondent/ Employee was working for 11 years continuously. There was nothing on record to indicate that she has accepted the charges levelled upon her on the basis of which the Petitioner has dispensed with the enquiry. So also, the Petitioner had not reserved it's right to conduct a de-novo enquiry in it's Written Statement filed before the Labour Court in pursuance to the ULP complaint filed by the Respondent.

6 It is, therefore, apparent that the Petitioner as well as the Labour Court presumed that the Respondent had accepted the charges levelled upon her. In my view, the said presumption is baseless and unsustainable as has been rightly concluded by the Industrial Court.

7 In the above backdrop, no fault can be found with the impugned judgment of the Industrial Court. The said judgment cannot be termed as being perverse or erroneous. This Writ Petition being devoid of merit is, therefore, dismissed.

8 The record and proceedings be returned to the Labour Court at Jalgaon.