

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO. 898 OF 2012**

**Sou Shobha Sangappa Magdum**

**..Petitioner**

**Vs.**

**The Miraj Urban Co-op Bank Ltd.**

**..Respondent**

**Ms Manjiri Parasnis for the Petitioner**

**Ms Prabha Badadare for the Respondent**

**CORAM : R. M. SAVANT, J.**

**DATE : 30<sup>th</sup> SEPTEMBER, 2016**

**P.C.**

1           The Writ Jurisdiction of this Court is invoked against the order dated 18-10-2016 passed by the Learned Member of the Industrial Court, Sangli by which order the Revision Application filed by the Petitioner being Revision ULP No.14 of 2011 came to be dismissed and resultantly the order dated 6-4-2011 passed by the Labour Court dismissing the Complaint in question came to be confirmed.

2           The Petitioner was working as a clerk in the Respondent Bank at the relevant time and was posted in the Station Road, Miraj Branch as Clerk and deputed to work on the loan counter. The Petitioner was charge sheeted on account of the misappropriation of an amount of Rs.21,23,420/- by one Shri Ghodake who was an Employee- Director of the Bank and who had cash credit account with the said branch. The graveman of the allegation against

the Petitioner was the facilitation of the said misappropriation by the said Employee-Director. An inquiry was held pursuant to the said charge sheet. In the said inquiry on the basis of the material that came on record, the inquiry officer held that the charges were proved against the Petitioner. Acting on the inquiry report an order of dismissal came to be passed against the Petitioner. This resulted in the Petitioner invoking the provisions of MRTU and PULP Act 1971 by filing a Complaint under item 1 (a), (b), (c),(d), (f) and (g) of Schedule IV of the said Act being Complaint (ULP) No.89 of 2001. In the said complaint, the Respondent filed its Written Statement and stated the antecedent facts relating to the passing of the order of dismissal against the Petitioner. The Labour Court framed two preliminary issues namely whether the inquiry was fair and proper and whether the findings were perverse. The Labour Court answered the said issues against the Petitioner and held that in view of the fact that a proper opportunity was given to the Petitioner, the inquiry was fair and proper. In so far as the findings are concerned, the Labour Court held that having regard to the material on record which included the admissions of the Petitioner during the course of the inquiry, the Learned Judge of the Labour Court held that the findings cannot be said to be perverse. After so recording his findings on the preliminary issues, the Labour Court thereafter ventured to consider the other issues. After recording the findings on the other issues, the Learned Judge of the Labour Court by his order dated 6-4-2011 dismissed the Complaint.

3           The Petitioner aggrieved by the said order dated 6-4-2011 passed by the Learned Judge of the Labour Court invoked the Revisionary Jurisdiction of the Industrial Court under Section 44 of the said Act. The Industrial Court having regard to the scope of its Revisionary Jurisdiction under Section 44 considered the Revision Application. The Learned Member of the Industrial Court adverted to the evidence on record. The Learned Member of the Industrial Court adverted to the fact that the Petitioner had admitted the fact that she had processed the cheques for clearance. The Learned Member of the Industrial Court also adverted to the fact that the said Employee- Director Shri. Ghodake was not entitled to the over draft facility beyond the limit of the cash credit account which he had with the said Station Road Branch. The Learned Member of the Industrial Court also adverted to the fact that it is the Petitioner who has mentioned the computer voucher number, ledger folio number on the cheque and challans in her own handwriting and put her initials on it. The Learned Member of the Industrial Court held that having regard to the scope of the Revisionary Jurisdiction, he could not interfere with the findings of fact recorded by the Labour Court as regards the complicity of the Petitioner in the misappropriation of the amount on the basis of which the charge sheet was issued to the Petitioner. The Learned Member of the Industrial Court concluded that the findings recorded by the Labour Court as regards the fairness of the inquiry as also as regards the non perversity of the findings did

not call for any interference in the Revisionary Jurisdiction under Section 44. The Learned Member of the Industrial Court accordingly by the impugned order dated 18-10-2011 has dismissed the Revision Application. Hence there is a concurrent finding recorded by the Courts below as regards the fairness of the inquiry as also the non perversity of the findings.

4           The Learned Counsel for the Petitioner made a valiant attempt to extricate the Petitioner from the finding of complicity of the Petitioner, recorded by the Courts below by contending that the Petitioner was a mere Clerk whereas the decision to clear the cheques is always taken at a higher level. It was the submission of the Learned Counsel that if one chain in the misconduct goes away then the Petitioner was required to be exonerated.

5           In my view, the said contention cannot be accepted in view of the findings of fact recorded by the Labour Court as regards the complicity of the Petitioner in the misappropriation of a huge amount as confirmed by the Industrial Court. Hence no case for interference in the Writ Jurisdiction of this Court under Articles 226 and 227 of the Constitution of India is made out. The Writ Petition is accordingly dismissed.

**(R.M.SAVANT, J)**