

Sequeira

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION*

WRIT PETITION NO. 12501 OF 2015

The Karad Urban Co-operative Bank Ltd., .. Petitioner
Vs.
Shri Dilip Shrirang Awasare. .. Respondent

Mr. Shekhar Jagtap a/w Mr. Akshay Kapadia i/b J. Shekhar & Co.,
for the Petitioner.
None for the Respondent.

***CORAM: N.M. JAMDAR, J.
Wednesday, 03 February 2016.***

PC. :

The Petitioner challenges the orders passed by the Labour Court and the Industrial Court dated 26 February 2010 and 19 August 2015 partly allowing the Complaint of the Respondent, and dismissing the Revision filed by the Petitioner, respectively.

2. The Respondent was issued a charge-sheet by the Petitioner on 31 January 2007. The Respondent who was working as a peon was charged with insubordination and arrogant behaviour. An inquiry was instituted against the Respondent. The inquiry was not completed and an order of dismissal was passed against the Respondent on 26 December 2007. This action was challenged by the Respondent by filing the Complaint (ULP) No.13 of 2008, in the Labour Court of Satara. The Labour Court partly allowed the Complaint and directed reinstatement of the Respondent with 60

per cent back wages. This order was challenged by the Petitioner, in Revision (ULP) No.13 of 2010 in Industrial Court, Satara. The Respondent also filed a Revision. The Industrial Court by order dated 19 August 2015, dismissed both the Revisions. It is an admitted position that the inquiry was not concluded and still the order of dismissal was passed, and that the Petitioner did not seek liberty to lead evidence to prove misconduct in the Court.

3. The learned counsel for the Petitioner submitted that the Respondent himself abandoned the inquiry therefore, no fault can be found with the action of the Petitioner. Both the Courts have recorded a finding, on fact of assessment of evidence, that this assertion of the Petitioner was not borne out by the record. Both the Courts have rightly taken a view that nothing stopped the Petitioner from concluding the inquiry *exparte*. In the inquiry there is no conclusion of misconduct against the Respondent. The termination of the Respondent was thus without an inquiry. In such a situation the Petitioner could have asked for permission to lead evidence justify the misconduct, that too without any reason whatsoever, has not been done.

4. In the circumstances, the termination of the Petitioner is illegal since there is no misconduct proved against him by any Authority as on date. In the circumstances, no fault can be found with the impugned orders. The Writ Petition is accordingly **rejected**.

(N.M.Jamdar, J.)