

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1893 OF 2016

Smt. Asha Sopan Ransing
Age 42 years, Occ.Service
R/o Pimpalgaon Pisa,
Taluka Shrigonda,
District Ahmednagar.

..Petitioner

Versus

1. The State of Maharashtra
Through the Secretary to the
Rural Development,
Mantralaya, Mumbai 400 032.

2. The Chief Executive Officer,
Zilla Parishad, Ahmednagar.

3. The Medical Officer,
Primary Health Center,
Pimpalgaon Pisa, Tq. Shrigonda,
District Ahmednagar.

..Respondents

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Advocate for Petitioner : Shri Shaikh M.A.Jahagirdar
h/f Shri A.S.Pavse

AGP for Respondent 1 : Shri S.N.Kendre

Advocate for Respondents 2 & 3 : Shri S.T.Shelke

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CORAM : RAVINDRA V. GHUGE, J.

Dated: February 22, 2017

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ORAL JUDGMENT :-

1. Heard learned Advocates for the respective parties.

2. Rule.

3. By consent, Rule is made returnable forthwith and the petition is taken up for final disposal.

4. The petitioner has challenged the dismissal of his Complaint (ULP) No.41 of 2011 by the impugned judgment dated 14.7.2015, delivered by the Industrial Court, Ahmednagar.

5. I have gone through the petition paper book and have considered the submissions of the learned Advocates.

6. In paragraph No.7(b) of the Complaint (ULP) filed by the petitioner, it is specifically prayed that the domestic enquiry conducted against him be vitiated and the findings of the enquiry officer be declared as perverse. In paragraph No.7(c), he has prayed for setting aside the punishment.

7. Considering the above, it is apparent in the light of the judgment of the Honourable Apex Court in the matter of Workmen of the Motipur Sugar Factory Private Ltd., Vs. The Motipur Sugar Factory Private Ltd. [AIR 1965 SCC 1803], and of this Court in the matter of Maharashtra State Roadways Transport Corporation Vs. Syed Saheblal Syed Nijam [2014 III CLR 547 = 2014 (4)

Mah.L.J.687], that the following two issues are required to be framed before dealing with the other issues:-

(A) Whether the complainant proves that the enquiry is vitiated for non-observance of the principles of natural justice?

(B) Whether the complainant proves that the findings of the enquiry officer are perverse?

8. In the instant case, the Industrial Court did not frame the said issues and yet proceeded to conclude that the principles of natural justice were followed and the findings are not perverse. What was expected of the Industrial Court was to frame the above said two issues and by relying upon the judgment of this Court in the matter of Maharashtra State Co-operative Cotton Growers Marketing Federation Ltd. & another Vs. Vasant Ambadas Deshpande [2014 MLJ 339 : 2014 I CLR 878], should have considered the fairness of the enquiry and the findings of the enquiry officer. This would have given the petitioner / complainant an opportunity to point out from the record and proceedings of the enquiry as to whether the enquiry was conducted in violation of the principles of natural justice and whether the evidence on record in the enquiry would not support the findings of the enquiry officer.

9. Considering the above, the impugned judgment dated 14.7.2015 stands quashed and set aside. Complaint (ULP) No.41 of 2011 stands remitted to the Industrial Court, Ahmednagar with the following directions:-

(A) The litigating sides shall appear before the Industrial Court on 24.3.2017.

(B) The Industrial Court shall frame the two issues stated above in paragraph No.7.

(C) The respondent shall produce the entire record and proceedings of the enquiry before the Industrial Court within two weeks from the date of appearance.

(D) Considering the law laid down in Vasant Ambadas Deshpande's case (supra), the Industrial Court shall decide the first two issues strictly on the basis of the record and proceedings of the enquiry.

(E) The evidence already recorded would not be referred to by the Industrial Court while deciding these two issues.

(F) Thereafter, the Industrial Court shall proceed to decide the Complaint in the light of the judgment delivered by the Honourable Apex Court in the matter of

Karnataka State Road Transport Corporation Vs.
Laxmidevamma & another [2001 (II) CLR 640].

10. This petition is partly allowed and Rule is made partly absolute in the above terms.

(RAVINDRA V. GHUGE, J.)

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akl/d