

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

WRIT PETITION NO.6108 OF 1999

Yashwant Muneshwar Yadav,
Age : 36 years, Occupation : Unemployed,
R/o Yadav Niwas, Shivaji Colony,
Mukundwadi, Aurangabad.

...PETITIONER

-VERSUS-

Almet Corporation Limited,
Plot No.A-25, MIDC Area,
Chikalhana, Aurangabad.

...RESPONDENT

...
None for the parties

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 13th June, 2019

Oral Judgment :

1 On 12.05.2017, I had passed the following order :-

- "1. *None appeared for the petitioner on 08.05.2017, 09.05.2017 as well as on this date.*
2. *S.O. 03.08.2017 for final hearing.*"

2 On 06.05.2019, I had passed the following order :-

- "1. *None appeared in the special vacation sitting on 08.05.2017, 09.05.2017 and 12.05.2017. Even today, none appear for the parties in the special vacation final hearing drive.*

2. *List this petition for "passing orders" on dismissal on 13.06.2019."*

3 Even today, none appears for the parties.

4 Though I could dismiss this petition in default, I find it appropriate to go through the record and proceedings available and deliver an order on the merits of the matter.

5 The petitioner/ workman was held guilty of indiscipline and serious misconducts and was dismissed from service on 24.03.1992. He was served with the charge sheet on 09.06.1991 and after conducting an enquiry, the enquiry officer held him guilty of the charge of insubordination, using abusive language and holding out threats to superior officers, vide the report dated 18.03.1992.

6 The petitioner preferred Complaint (ULP) No.114/1992 before the Labour Court. The issues were cast and the issue with regard to the fairness of the enquiry was taken up for adjudication. The petitioner filed a purshis dated 09.01.1988 declaring that he does not want to dispute the enquiry and its fairness and the other issues may be considered. The Labour Court, thereafter, proceeded to consider the findings of the enquiry officer in the light of the oral and documentary evidence adduced before the enquiry officer. It was held that the evidence available was sufficient to prove the charges against the petitioner.

7 I find from the charge sheet that it was brought to the notice

of the petitioner as regards the threats held out by him, abusive language and actual words used by him, which were reproduced in the charge sheet. The victims of the misconduct committed by the petitioner deposed before the enquiry officer. I, therefore, do not find that the enquiry report could be termed as being perverse.

8 The Labour Court concluded that the misconducts committed by the petitioner are so grave and serious that he deserved the punishment of dismissal from service. I find from the charges proved against the petitioner that the petitioner had interjected in a verbal duel between one Mr.Kundgar and a senior officer Mr.Ashok Kumaran. The petitioner threatened Mr.Kumaran by stating that he would break his legs and used abusive language saying that he does not care if he loses his employment, but he would physically assault Mr.Kumaran. Such behaviour, threats of physical assault to superior officer and abusive language in the presence of other workers, is a grave and serious misconduct, which does not call for any interference.

9 The Honourable Supreme Court has held in the following judgments that no leniency deserves to be shown in such cases where the employee has used abusive language, held out threats of physical assault and committed acts subversive of discipline in the organization :-

(a) Orissa Cement Ltd. vs. Adikanda Sahu, (1960) 1 LLJ 518 (SC).

- (b) *Krishnakali Tea Estate vs. Akhil Bharatiya Chah Mazdoor Sangh, (1973) 2 SCC 502.*
- (c) *New Shorrock Mills vs. Maheshbhai T. Rao, (1996) 6 SCC 590.*
- (d) *Muriadih Colliery BCC Ltd. vs. Bihar Colliery Kamgar Union, (2005) 3 SCC 331.*
- (e) *M.P. Electricity Board vs. Jagdish Chandra Sharma, (2005) 3 SCC 401.*

10 Considering the above, I do not find that the Labour Court has committed any error in dismissing the complaint. I also do not find that the Industrial Court has committed any error in dismissing Revision (ULP) No.36/1998 filed by the petitioner vide judgment dated 13.11.1998.

11 This Writ Petition being devoid of merit is, therefore, dismissed. Rule is discharged.