

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4755 OF 2019

THE POONA CHRISTIAN MEDICAL ASSOCIATION JALNA MISSION
HOSPITAL THROUGH MEDICAL SUPERINTENDENT
VERSUS
PRABHAKAR NAMDEV TAMBE

Mr.T.K.Prabhakaran h/f Mr.A.V.Mundada, Advocate for the petitioner.
Mr.M.M.Kamble, Advocate for the respondent.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 07/10/2019

PER COURT :

1. This matter was heard for some time.
2. Prima-facie, I find that the Industrial Court, should have exercised it's jurisdiction u/s 44 of the MRTU and PULP Act to assess as to whether the Part I judgment of the Labour Court dated 29/09/2017 is perverse and erroneous. I find from the impugned judgment of the Industrial Court dated 15/10/2018 that it has concluded that the Labour Court has not properly gone through the enquiry proceedings and has not dealt with the first 2 issues with regard to the vitiation of the enquiry and the perversity in the findings of the Enquiry Officer on the basis of the record and proceedings of the enquiry.

3. In my view, the Industrial Court should have itself gone through the R & P to find out whether the Part I judgment of the Labour Court was worthy of being branded as being perverse or erroneous.

4. The learned Advocates for the respective sides submit on instructions from the respective litigants present in the Court that this Court may remand the revision proceedings to the Industrial Court, Jalna for considering the same on its own merits.

5. In view of the above, this petition is partly allowed and the impugned judgment dated 15/10/2018 is quashed and set aside only to facilitate a proper hearing on Revision No.55/2017 within the revisional jurisdiction of the Industrial Court u/s 44.

6. The Industrial Court would appreciate the scope of its revisional powers u/s 44 and would consider whether the Part I judgment of the Labour Court dated 29/09/2017 delivered in Complaint (ULP) No.05/2017, can be branded as being perverse or erroneous. It would consider the averments of the litigating sides on the merits of the matter and if required, it shall scan the record and proceedings of the

domestic enquiry conducted by the Management.

7. The parties shall appear before the Industrial Court on 28/11/2019, in view of the request of the learned Advocate for the respondent/employee. Formal notices need not be issued.

8. In view of the request of the learned Advocate for the respondent/employee, that his provident fund papers may be cleared expeditiously by the petitioner/Management so that he would be able to receive his provident fund dues before Diwali, the learned Advocate for the petitioner submits that the PF form would be cleared by the petitioner/Management within 5 days. Similarly, it is expected that the PF authorities shall clear the PF accumulations of the respondent/employee on or before 22/10/2019.

(Ravindra V.Ghuge, J.)