

BDP-SPS

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10694 OF 2018**

Shri Vasant Bajrang Pise

.... Petitioner.

V/s

Executive Director,
Maharashtra State Electricity
Distribution Co. Ltd. & Ors.

.... Respondents.

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Mr. Sushil Inamdar for the Petitioner.

Mrs. Anjali R. Shiledar-Baxi for Respondent Nos. 1 and 2.

CORAM: NITIN W. SAMBRE, J.

DATE: 24th June, 2019

P.C.:-

1] Having noticed certain defaults while discharging duties, Petitioner came to be charge-sheeted. Vide memorandum of charge dated 20/10/2000, charge-sheet came to be served on the Petitioner. Respondent-employer appointed Inquiry Officer on 29/03/2001 and called upon the Petitioner to file his Statement of Defense and also participate in the inquiry.

2] After the inquiry was conducted, annual increment of the

Petitioner was directed to be stopped for five years. The Petitioner thereafter, on the basis of pleadings of the parties, raised a preliminary issue, as to whether the inquiry held against the Petitioner was fair or not. The same was answered against the Petitioner. As such, this Petition.

3] The submissions are that, for the first time, inquiry proceedings were scheduled on 24/04/2001, which were adjourned to 26/04/2001 at the behest of the Petitioner. The Petitioner moved an application, pointing out that his Defense representative, for personal reasons, was required to move out of the said place and as such, sought adjournment, which was refused. The contention is, subsequent thereto, neither the Statement of Defense was permitted to be placed on record nor adjournment was granted, though other similarly placed employees were granted accommodation. As such, the prayer is for quashing the order impugned.

4] Per contra, learned Counsel for the Respondent-employer would support the order and submits that fair opportunity of hearing was offered to the Petitioner.

5] Having dwelled upon the controversy, what is noticed is, after the charge-sheet was served upon the Petitioner on 20/10/2000, the Petitioner was made aware about requirement of filing his Statement of Defense and also right to appoint defense representative.

6] The record and the observations made by the learned Industrial Court reflects that the Petitioner was offered opportunity to place on record his Statement of Defense and was also given opportunity to cross-examine the witnesses, which the Petitioner has not availed of.

7] That being so, once it is placed on record that the Petitioner was given fair opportunity to defend his case, which the Petitioner in the capacity of employee has failed to availed of, no fault could be noticed in the matter of conduct of inquiry so as to declare that the inquiry was illegal or fair opportunity was not given to the Petitioner.

8] All these aspects of the matter are taken into account by the Industrial Court while passing the impugned order. The claim of the Petitioner that other similarly placed employees were granted more

number of adjournments so as to defend their case, which was not offered to the Petitioner is not established through any documentary evidence. That being so, no case for interference in supervisory jurisdiction is made out. Petition fails and the same is dismissed.

(NITIN W. SAMBRE, J.)