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

WRIT PETITION NO.5461 OF 2017

Ramesh Vasant Vengurlekar

.. Petitioner

Vs.

Chairman/Managing Director

Force Motors Limited

.. Respondent

Mr. Milind Parab I/b. Milind Parab & Associates for the petitioner.

Mr. Vishal Talsania I/b. K.A. Unni for the respondent.

CORAM : A.K. MENON, J.

DATED : 11TH FEBRUARY, 2019.

P.C. :

1. The challenge in this writ petition is to an order dated 25th February, 2016 dismissing the Reference (IDA)no.7 of 2009. The only grievance of the petitioner today and as canvassed by his learned counsel Mr.Parab is that the petitioner was not granted an opportunity of cross examining the respondent's witness during the enquiry which has been admittedly conducted. The facts reveal that the petitioner was an "Auto Electrician" employed with the respondent since 12th August, 1981. There were allegations that he was involved in various incident of indiscipline and instigating other workmen to participate in a strike and threatening the workmen as well. This led to an enquiry being conducted. The petitioner was charge sheeted. The

charges were proved resulting an order of dismissal which came to be challenged.

2. A Reference was made by the appropriate government to adjudicate the dispute, copy of which is at page 17. The Labour Court heard both the parties. As against the claim for reinstatement with continuity of service and full back wages, the Labour Court framed four substantial issues and found that the termination was not illegal nor was the punishment imposed disproportionate. Consequently, it was held that the petitioner is not entitled to reinstatement and continuity of service. No question of payment of back wages therefore, arose.
3. Although the learned counsel for the petitioner has submitted that he was prevented from cross examining the respondent's witness, the record indicates that it is only the petitioner who led oral evidence. The respondent had not led evidence but has relied upon the documents of his own. As far as the enquiry is concerned, the record is clear to the effect that no oral evidence was led and hence it is not known on what basis the petitioner contends that he was not granted an opportunity of cross examination. Even otherwise there is no application made on behalf of the petitioner to seek cross examination of any person who tendered the documents. In that view of the matter,

I do not find anything perverse in the impugned order. The impugned order as set out in paragraph 10 towards the fact that no evidence has been produced to show that the punishment was disproportionate. In my view, there is nothing to show that the petitioner was not granted a proper opportunity of presenting his case and the enquiry proceedings have not been challenged. Once the enquiry is found to be fair and proper, it is for the respondent to proceed and impose the punishment. The impugned order has considered all these aspects and answered the issues in the negative in favour of the respondent. Nothing has been shown to persuade me to hold the impugned order to be perverse. The challenge accordingly fails. As a result, I pass the following order;

- (i) Petition is dismissed.
- (ii) No orders as to costs.

(A.K.MENON,J.)