

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
LETTERS PATENT APPEAL NO.207 of 2009
IN
WRIT PETITION NO. 1734 OF 1997

Subhash Ramchandra Dumbre .. Appellant
Versus
Maharashtra State Co-operative
Agricultural and Rural Development
Bank Ltd and ors .. Respondents

...

Mr. Arjun Kadam i/b Mr.S.R. Nargolkar for the appellant.

CORAM: PRADEEP NANDRAJOG, C.J.
AND BHARATI DANGRE, J.

DATED : 5th DECEMBER, 2019

P.C:-

1 The appellant challenges the judgment dated 10th July 2009 passed by the learned Single Judge dismissing Writ Petition No.1734/1997 filed by the appellant. The appellant an employee of the respondent Bank remained absent for 71 days from 1st July 1984 till 11th October 1984. Thereafter, he continuously remained absent for 610 days in the year 1979-80 to 1983-84. On account of the continuing absence without leave being obtained his services were terminated on 25th September 1985.

2 The appellant approached the Labour Court which held that on account of his service being terminated without an inquiry, the order of termination fouled the law. The appellant was reinstated. The Bank filed a Revision before the Industrial Court which allowed the same vide judgment dated 7th February 1996 reasoning that inquiry has to be held if a fact was in dispute. In the instant case, no fact was in dispute. It was an admitted case where without obtaining leave the appellant was continuously absent from duty for 610 days.

3 The judgment of the Labour Court in favour of the appellant being reversed he filed Writ Petition No. 1734/1997 which has been dismissed by the learned Single Judge vide impugned order dated 10th July 2009 concurring with the view taken by the Industrial Tribunal.

4 The learned Judge has held that an inquiry has to be held where a fact is in dispute and not when nothing was in dispute.

5 We do not find any ground urged either in the Writ Petition or in the Appeal that the appellant was entitled to leave and had sought leave. It is the duty of every employee to report for duty unless there is a compelling reason not to do so. An employee has to apply for leave if the employee does not report

for duty. The leave may be a Casual Leave, it may be a Medical Leave it may be Earned Leave, but leave has to be applied.

6 Such kind of delinquencies cause serious
administrative problems in the working of the employer. Surely,
610 unauthorized leave without informing the employer would
entail service being terminated and specially when the employee
gives no justification whatsoever for the unauthorized leave.

7 Appeal is dismissed.

SMT. BHARATI DANGRE, J

CHIEF JUSTICE