

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8482 OF 2019

Excide Industries Ltd.

...Petitioner

vs.

Shri Sanjay Janardan Pawashe & Anr.

...Respondents

Mrs.Mitra Das with Jayeeta Das i/b. Mayur Shikhare for Petitioner.

Mr.Liyakat Ali Sawant for Respondents.

CORAM : S.C. GUPTE, J.

DATE : 16 DECEMBER 2019

P.C. :

This writ petition challenges an order passed by the Labour Court at Thane on an application made in a reference. The application (Exhibit C-124) was for discarding the evidence so far led on the issues of fairness of inquiry and perversity of findings, and deciding these issues on the basis of the existing record. Based on the judgment delivered by this court in the case of **Divisional Controller, Maharashtra State Road Transport Corporation vs. Bhushan Jagannathrao Bulbule**¹, the first party before the reference court, who is the Petitioner herein, filed the present application. The case of the first party was that issues to be decided at Part-1 stage could be decided on the basis of the record of the Inquiry Officer and the Disciplinary Authority made available before the Labour Court and no evidence was necessary. The Labour Court rejected the application.

2 After the matter is heard at some length in this court, it is agreed between learned Counsel for the parties that the impugned order of

¹ 2018(3) LLN 311 (Bom.)

rejection of Exhibit C-124 may be allowed and Part-1 inquiry in the reference may be made on the basis of the record of the Inquiry Officer and the Disciplinary Authority.

3 The impugned order of the Labour Court dated 13 March 2019 is, accordingly, quashed and set aside. Exhibit C-124 is allowed. The Labour Court shall decide and make Part-1 award within three months after this order is pointed out to the court. Both parties may remain present before the Labour Court on 20 December 2019 and produce an authenticated copy of this order, whereupon the Labour Court may fix a schedule of hearings. The Labour Court shall decide the issues of fairness of inquiry and perversity of findings on their own merits.

4 The writ petition is disposed of in above terms.

(S.C. GUPTE, J.)