

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Amk

LETTERS PATENT APPEAL NO. 24 OF 2007
IN
WRIT PETITION NO. 6986 OF 2006

Ms. Shakuntala T. Nikalje

.. Appellant

Vs.

M/s. Dalal Mott MacDonald Pvt. Ltd. & Ors.

.. Respondents

Mr. V. P. Patil for the Appellant.

Mr. V. N. Tayade for Respondent No.1.

**CORAM : PRADEEP NANDRAJOG, C.J. &
SMT. BHARATI DANGRE, J.**

DATE : 8th NOVEMBER, 2019.

P.C. :

1. Heard learned Counsel for the parties.
2. The impugned order dated 18.10.2006 reads as under:

“Undisputedly, the Labour Court in the Complaint (ULP) No.511 of 1994 by order dated 24th April, 2001 had held that the inquiry conducted by the respondents was legal, fair and proper, and the findings of the Inquiry Officer were not perverse. The said findings have not been challenged by the petitioner. In the circumstances, once the charges have been proved and the inquiry has been conducted properly without any violation of the basic principles of natural justice and the findings of the Inquiry Officer were not perverse, no fault can be found with the punishment

imposed against the petitioner for dismissal from the service, particularly taking note of the nature of the misconduct proved against her. Being so, in some other cases, merely because the management has taken some lenient view, that itself does not give rise to right in favour of the petitioner to contend that the petitioner also should be meted with the same punishment.

2. As no other point is canvassed in the matter, there is no case for interference in the impugned order, and the petition fails and is dismissed.”

3. Concededly, before the learned Single Judge the findings returned by the enquiry officer were not questioned nor was the report submitted by the enquiry officer. The only contention advanced before the learned Single Judge was that some employees who were charge-sheeted were allowed to be voluntarily retired.

4. Now, this took place when the charge-sheet was issued and the Appellant could have also sought voluntary retirement.

5. Suffice it to state, if some employees sought to be voluntarily retired, and their offer was accepted, other charge-sheet employees who did not seek voluntary retirement cannot question the penalty imposed on the ground that some were permitted to be voluntarily retired.

6. The second contention advanced is that two other similarly situated employees were permitted to be voluntarily retired post penalty levied.

7. The Appellant did not make any such offer, meaning thereby, the Appellant wanted to litigate.

8. We find no infirmity in the impugned order.
9. The Appeal is dismissed.

[SMT. BHARATI DANGRE, J.]

[CHIEF JUSTICE]

Arjun
M.
Kadam

Digitally signed
by Arjun M.
Kadam
Date:
2019.11.13
11:15:52
+0530