

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 14764 OF 2018

The Solapur Municipal Corporation ... Petitioner
Versus
Jadhav Saraswati Manohar ... Respondent

Mr. M. P. Rao, Senior Advocate i/b Mr. I.M. Khairdi for the
Petitioner.
Mr. Suhas Inamdar for the Respondent.

CORAM : M. S. KARNIK, J.
DATE : 20th MARCH, 2019.

P. C.:

1. Rule. Rule returnable forthwith and heard by consent of both the parties, finally.
2. By this petition under Article 227 of the Constitution of India the petitioner – Solapur Municipal Corporation challenges the order dated 5th April, 2018 passed by the Industrial Court, Solapur in Complaint (ULP) No. 9 of 2011 filed by the respondent. The petitioner initiated departmental proceedings against the respondent for alleged act of misconduct. The charges levelled against the respondent were found to be true and duly proved by the Inquiry Officer by an inquiry report dated 9th May, 2012. There was no punishment imposed upon the respondent.

3. I have gone through the impugned order passed by the Industrial Court. It would be material to refer paragraph 8 of the said order, which reads thus :

“8. The Respondent has not filed the evidence of Shri. Arya in this case. Instead, the Advocate for the Respondent in his final arguments has mentioned that the Complainant has though being found guilty by the Enquiry Officer, but the Respondent does not intend to further pursue the matter against the said Complainant, because it has been found that Complainant is not guilty of the said misconduct, the respondent submitted that the affidavit of Shri Arya in connected matters have clearly mentioned that the alleged financial scam was done by employees of lower grade and not by senior grade, admittedly the complainant is higher grade employee and hence was not implicated by the respondent.”

4. It is therefore clear that the petitioner did not file evidence of Shri Arya in the case. Moreover, it is specific stand of the petitioner that they do not intend to pursue the matter further against the respondent, because, the respondent is found not guilty of said misconduct. It is in respect of the connected matters that the petitioner-Corporation has proceeded against those employees who are held guilty of the misconduct. In this view of the matter, no fault can be found with the order of the Industrial Court.

5. The Industrial Court has directed the petitioner-

Corporation to pay the legal dues of the respondent within two months from 5th April, 2018. In case, the petitioner-Corporation complies with clause (3) of the operative part of the order dated 5th April, 2018 of the Industrial Court within a period of three months from today, no coercive steps shall be taken by the respondent against the petitioner-Corporation.

6. With these observations, the writ petition is dismissed with no order as to costs. Rule discharged.

(M. S. KARNIK, J.)