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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10527 OF 2017**

Ashok Parsu Shirole	..Petitioner
vs.	
Shree Datta Sahakari Sakhar Kharkhana Ltd.	..Respondent

**ALONG WITH
WRIT PETITION NO. 7529 OF 2017**

Prashant Santu Kundekar	..Petitioner
vs.	
Shree Datta Sahakari Sakhar Kharkhana Ltd.	..Respondent

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Shri M.S. Topkar for the petitioner in both Writ Petitions.
Shri K.S. Bapat i/b. Shri V.B. Rajure for respondent in both Writ Petitions.

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CORAM : M.S.KARNIK, J.

DATE : 8th APRIL, 2019

P.C. :

Rule. Rule is made returnable forthwith by consent
of the parties and heard finally.

2. By these Petitions filed under Article 226 and 227 of
the Constitution of India, the petitioners, who were employed

with the respondent, are challenging the order passed by the Industrial Court, Kolhapur in Revision setting aside the order passed by the Labour Court. Pursuant to chargesheet issued by the respondent against the petitioner an enquiry was conducted. The charges levelled against the petitioner are that the petitioners and one of the employees indulged in fighting and there was assault. The charges are duly proved in the course of the enquiry.

3. The Disciplinary Authority on the basis of the proved charges of assault inflicted punishment of dismissal. The petitioners challenged the dismissal before the Labour Court. In so far as enquiry is concerned, the Labour Court ultimately came to a finding that the enquiry held against the petitioner is fair, legal and proper and the charges are duly established. However, the Labour Court was of the opinion that the incident in question between two employees is of quarrel and not of assault. In this view of the matter, on the quantum of punishment the Labour Court held that the punishment imposed is not proper

and Labour Court therefore granted relief of reinstatement with continuity of service and 50% back wages.

4. The respondent filed Revision against the order of the Labour Court before the Industrial Court. The Industrial Court took into consideration the past record and the misconducts of the petitioners on 14/2/1998, 6/3/1999, 14/9/2001 and 3/9/2005 and held that opportunity was given to the petitioners to improve their conduct. The Industrial Court also observed that the Inquiry Officer held in the enquiry report that both the employees indulged in fighting/assault and it was not a mere quarrel. Considering the past service record the Industrial Court held that previously the petitioners were censured. The Revision therefore came to be allowed.

5. Learned Counsel for the petitioners vehemently urged that the Revisional Court was not justified in interfering with the findings of the Labour Court. He invited my attention to the evidence on record. According to him, the depositions of the witnesses would clearly establish that the allegation of

fighting and assault cannot be proved. He submitted that the Inquiry Officer was not justified in recording a finding that the charges levelled against the petitioners that of assault and fighting is proved. According to him, the said finding is not based on the materials on record and Inquiry Officer has not properly appreciated the evidence on record. He would moreover submit that the Labour Court has correctly come to the conclusion that there was quarrel between two employees. He therefore would submit that the Revisional Court was not justified in interfering with the order of Labour Court.

6. Learned Counsel for the respondent on the other hand invited my attention to the findings recorded by the Industrial Court. He would submit that the enquiry has been held to be fair, legal and proper and that the charges are duly proved. In his submission, it was therefore permissible to the Labour Court to come to the conclusion that there was only a quarrel and not assault. In his submission, the charges proved against the petitioners during the course of enquiry are very

serious and for the reasons mentioned by the Industrial Court. Learned Counsel for the respondent would submit that this is not a case where the view taken by the Industrial Court warrants any interference.

7. I have gone through the order passed by the Labour Court as well as Industrial Court. I have also gone through the depositions of the witnesses which learned Counsel for the petitioners invited my attention. The enquiry is also held to be fair, proper and legal. The Inquiry Officer has based his conclusions on the materials on record and thereby arrived at the conclusion that the charge of assault is duly proved. In this view of the matter, the Labour Court was not justified in again re-appreciating the evidence on record in arriving at the conclusion that the charge proved is that of quarrel and not assault. The Industrial Court has taken into consideration the past service record of the petitioners which is not unblemished. The Industrial Court has pointed out the different dates on which the past misconducts are committed. The Industrial Court

has also observed that due opportunity was given to the petitioners to improve their conduct. During the course of the enquiry the charge proved is that of assault.

8. Having regard to the facts and circumstances and having gone through the reasons recorded by the Revisional Court, I do not find the view taken by the Revisional Court is erroneous or perverse so as to warrant interference.

9. The present Petitions are therefore devoid of any merits and accordingly dismissed with no order as to costs.

10. Rule is discharged.

(M.S.KARNIK, J.)