

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.5902 OF 2019

(Maharashtra State Road Corporation, Amravati ...VS.. Rajendra S/o Tukaram Dabhade)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri V.G.Wankhede, Advocate for Petitioner.

CORAM : Z.A.HAQ, J.

DATED : 26th AUGUST, 2019.

Heard.

The petitioner-Corporation has challenged the orders passed by the subordinate Courts concurrently upholding the claim of the respondent-employee that show cause notice of dismissal issued to the respondent-employee is illegal, and quashing the show cause notice.

The Labour Court, after assessing the evidence on record had passed the order on 24.11.2014 on the preliminary issue holding that the enquiry conducted against the respondent-employee was not fair and proper. The petitioner-Corporation had neither challenged the order dated 24.11.2014 nor had sought permission of the Court to prove misconduct of the respondent-employee before the Court. Then, the Labour Court passed the order dated 21.08.2015 and allowed the complaint filed by the respondent-employee. This order dated 21.08.2015 was challenged by the petitioner-Corporation before the Industrial Court in Revision Application which is dismissed by the impugned order.

The petitioner-Corporation had not challenged the order dated 24.11.2014. Paragraph nos. 14 and 15 of the order passed by the Industrial Court are relevant and are as follows :

“14. From the Records and Proceedings of Com.-ULP- No.53/2004, it is seen that the Judge, Labour Court passed the order on Preliminary Issue No.1 and 2 on 24.11.2014, thereby held that the enquiry conducted by the respondents against the complainant is not legal, proper and according to the principles of natural justice. In the same order, the respondents are permitted to prove the misconduct committed by the complainant before the Court. After 24.11.2014, the matter was fixed for respondents evidence on 15.12.2014, then again adjourned to 8.1.2015, then again adjourned to 22.11.2015, then again adjourned to 13.3.2013, then again adjourned to 20.4.2015 and then adjourned to 13.05.2015 for argument and finally on 21.8.2015, the Judge, Labour Court decided Com.-ULP-No.53/2004.

15. After perusal of the Records and Proceedings of Com.-ULP-No.53/2004, it is seen that, though sufficient opportunity was given to the petitioners (original respondents) to prove the misconduct before the Labour Court, but respondents failed to adduce any evidence, therefore, the Labour Court has closed the evidence of the respondents. Even, there is no application for adjournment or request of the respondents to the Labour Court to give time to

examine the witnesses. In such circumstances, it is difficult to accept the contention of the petitioners (original respondents) that no sufficient opportunity is given to them to prove the misconduct against the complainant before the Labour Court. I do not find any substance to the contentions raised by the petitioners (original respondents). The Labour Court has given sufficient opportunity to the respondents and rightly closed the matter for argument, but at the time of argument also, the petitioners (original respondents) have not shown any willingness to examine any witness to prove the misconduct before the Labour Court. All these facts and circumstances, clearly goes to show that the Judgment and order passed by the Labour Court is legal and proper. With these reasons, I proceed to pass the following order.

ORDER

1. *The Rev.-ULP-No.87/2015 is hereby dismissed.*
2. *No order as to costs.*
3. *R. & P. of Com.-ULP-No.53/2004 be sent back to the Labour Court, Amravati.”*

The petitioner-Corporation has not given any explanation in the petition filed before this Court for the lapses on the part of its officers and advocates representing it before the Labour Court. I find that the subordinate Courts have rightly examined the matter. It cannot be said that the subordinate Courts have committed any illegality or error of jurisdiction which necessitates interference by this Court in the extraordinary jurisdiction.

Hence, the Writ Petition is **dismissed**. No costs.

The facts recorded in paragraph no. 14 of the order passed by the Industrial Court shows total negligence on the part of the officers responsible for defending the matter and to some extent lapses appear to be on the part of the advocate representing the petitioner-Corporation before the Labour Court.

The Managing Director of petitioner-Corporation shall conduct an enquiry in the matter and take appropriate action and file affidavit of compliance on record of this petition till 30.11.2019.

Shri V.G. Wankhede, Advocate for the petitioner-corporation shall communicate this order and Judgment of Industrial Court to the Managing Director of petitioner-Corporation and file affidavit of compliance on record of this petition within two weeks from today.

JUDGE

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