

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

938 WRIT PETITION NO. 11219 OF 2019

KSPG Automotive (India) Pvt. Ltd.
Plot No.A-1, Supa-Parner Industrial
Park, Supa, Taluka Parner,
District Ahmednagar.
Through its Director HR, Legal
Affairs and EHS.

Petitioner.

Versus

Sanjay Uttamrao Kakulte
Age : 51 years, occ : Nil
R/o Block No. D-24, Premdan,
Hudco, Savedi, Ahmednagar.

Respondent

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Mr. Y.R. Marlapalle, Advocate for the petitioner.
Mr. P.V. Barde, Advocate for respondent.

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CORAM : **Rohit B. Deo, J.**

DATE : 7th January 2020.

JUDGMENT :-

. Rule. Rule made returnable forthwith. Heard finally with consent of both the parties.

2. The petitioner – employer is aggrieved by the order dated 08.12.2017 rendered by First Labour Court, Ahmednagar in Complaint (ULP) No. 5/2016 holding that the inquiry conducted against the respondent-employee was

unfair. The employer unsuccessfully challenged the said order in revision, which is dismissed by the Industrial Court.

3. Mr. Marlapalle, learned Counsel for the employer would submit that while the charge-sheet which was issued to the employee appears to be vague at the first blush, by placing on record particulars of allegations (Exh-8) the employer did cure the defect in the charge-sheet. The submission canvassed by the learned Counsel is that both the Courts below committed error in holding that the charge-sheet issued was vague, cannot be countenanced.

4. The Courts below have noted and rightly so that the particulars of allegations (Exh-8) was placed on record only after the first witness was examined. In this view of the matter, it is difficult to subscribe to the submission of the said document (Exh-8) be treated as a part and parcel of the charge-sheet.

5. Both the Courts below have further recorded finding of fact that the inquiry was conducted in a haste. This finding also appears to be unexceptionable. The facts culled out by the Industrial Court would show that the employee submitted his defence statement on 22.09.2015, he thereafter examined two witnesses and sought further time

on 30.09.2015. The issue is considered thus by the Industrial Court in para 15 of the judgment :

“15. From enquiry papers, it appears that complainant has given his defence statement on 22.09.2015 and thereafter he examined two witnesses and also requested for further adjournment on 30.09.2015. However, his request for further time is rejected. Said fact also shows that proper opportunity was not given to complainant to lead evidence in defence. Moreover, very short period is given to him to lead evidence i.e. only one week. Therefore, also I find some substance in the contention of complainant that in departmental enquiry complainant was not given proper opportunity to defend himself. Applications in departmental enquiry also shows that he was not given inspection of documents and also not supplied copies of relevant document. Therefore, findings of Labour Court that enquiry is vitiated appears just and proper”.

6. The Courts below have rightly held that the employee was not afforded sufficient opportunity to lead evidence in defence. The Industrial Court has also recorded a finding that the employee was not permitted inspection of documents nor was the employee supplied copies of the relevant documents. I am satisfied that the enquiry is rightly

declared unfair since the charge-sheet issued to the employee is manifestly vague and refusal of the Enquiry Officer to grant time to the employee to adduce further evidence, is clearly unsustainable.

7. I do not see any reason to interfere in writ jurisdiction.

8. The petition is dismissed. Rule is discharged.

(ROHIT B. DEO, J.)

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