

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.2797 OF 2020

YOGESH BALASAHEB SAKHARE
VERSUS
THE EXECUTIVE ENGINEER MSEDCL AND ANOTHER

...
Advocate for the Petitioner : Shri Salunke V.D. a/w Shri S.A.Patil

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 04th March, 2020

Per Court:

1 The petitioner is aggrieved by the judgment and order dated 06.08.2019 delivered by the Industrial Court, Latur vide which, Revision (ULP) No.25/2019 filed by the respondent/ management has been allowed and the interim order dated 05.03.2019, passed by the Labour Court, Latur in Complaint (ULP) No.11/2019, has been quashed and set aside.

2 I have considered the strenuous submissions of the learned advocate on behalf of the petitioner/ original complainant and have perused the petition paper book with his assistance.

3 There is no dispute that an offence was registered against this petitioner at Dharur Police Station and he was convicted on 28.02.2013 in Crime No.17/2020 for having committed the offences punishable under

Sections 307, 147, 148, 149, 326, 324, 323, 504, 506 and 144 of the Indian Penal Code. The petitioner submitted the application for seeking employment on 01.10.2013 and while securing employment, did not disclose that he was convicted by the learned Sessions Judge, Majalgaon. He has appealed to the Bombay High Court and by order dated 24.04.2013, he has been granted bail. His conviction has not been stayed. This aspect came to the notice of the employer and in view of the judgment delivered by the competent court of convicting the petitioner, he was discontinued on 16.02.2019.

4 The Labour Court, by order dated 05.03.2019, proceeded on the premise that because an enquiry was not conducted, the employer could not have disengaged the employee. As such, the Labour Court granted the following relief :-

"Respondents are directed to reinstate the complainant on his post held at the time of terminating his service with all benefits till disposal of main complaint."

5 The respondent/ management approached the Industrial Court by preferred Revision (ULP) No.25/2019 under Section 44 of the MRTU & PULP Act, 1971. The Industrial Court relied upon the judgment delivered by the Honourable Supreme Court in the matter of **Avatar Singh vs. Union of India, (2016) 8 SCC 471** and concluded that when an employee is guilty of *suppressio veri or suggestio falsi*, he cannot be kept in

employment. In view of the law laid down by the Honourable Supreme Court, the Revision ULP was allowed and the interim order passed by the Labour Court was quashed and set aside.

6 This Court has crystallized the law in catena of judgments that the Court cannot grant final relief at an interim stage. In service jurisprudence, this Court has taken such view in several judgments, one of them being the *Executive Engineer, MSEB, Morshi vs. Industrial Court and another*, 2001 (3) Mh.L.J. 320 : (2002) IV LLJ 292 Bom. Similarly, in the matter of *Narsinggirji Mills vs. Abdul Rashid Ladlesab Shaikh*, 1993 (2) CLR 866 : 1994 (2) LLJ 152, it was held that final reliefs ought not to be granted at an interim stage and if the complainant has a strong prima facie case against his termination, an appropriate relief could be granted without granting final relief.

7 In the instant case, merely because the employer did not conduct an enquiry and relied upon the judgment convicting the petitioner of grave offences, to terminate him, the Labour Court has granted final relief, being oblivious of the fact that once there is conviction of an employee, a departmental enquiry can be dispensed with by the employer and he could be terminated by the employer without enquiry.

8 As such, I do not find that the impugned judgment of the Industrial Court could be branded as being perverse or erroneous. This Writ Petition, being devoid of merit is, therefore, dismissed.

9 Needless to state, as and when the ULP complaint is decided by the Labour Court, the same shall be adjudicated upon in the light of the oral and documentary evidence that may be adduced by the parties.

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(RAVINDRA V. GHUGE, J.)