

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

LETTERS PATENT APPEAL NO.94 OF 2010
IN
WRIT PETITION NO.5976 OF 2009

Shri. Bhimrao Khanderao Bhendale	..Appellant
Versus	
Huzaifa Furniture Industries Pvt. Ltd.	..Respondent

Mr. Sachin Gite, Advocate for the Appellant.
Mr. Vijay P. Vaidya, Advocate for the Respondent.

CORAM : PRADEEP NANDRAJOG, C.J. &
SMT. BHARATI DANGRE, J.
DATE : 3rd JANUARY, 2020

ORAL JUDGMENT (Per Pradeep Nandrajog, CJ)

- 1] Heard learned counsel for the parties.
- 2] The Appellant was a Production Supervisor with the Respondent and it came to the notice of the Respondent that raw material entrusted to the Appellant for being used in the production of goods for the Respondent was being misappropriated and that wood was used by the Appellant to craft a wooden temple and speaker boxes for personal use.
- 3] Charge-sheeted and suspended on 23.07.2003, the Appellant admitted to the acts alleged in the charge-sheet. The Appellant pleaded the defence of a trivial wrong in the sense not much

value of wood used to craft the wooden temple and speaker boxes.

4] Inquiry was held after the response filed. The Appellant was indicted. Rather than inflicting the penalty of dismissal from service he was visited with the penalty of discharge on 08.10.2003. The Appellant was paid the retrenchment compensation.

5] Proceeding to the Labour Court the Appellant found success when by the award dated 12.02.2009 finding returned was that it was not a case of fraud or cheating. The Labour Court took a view that the Appellant would be guilty of negligence in performing his duties.

6] Termination being held to be invalid reinstatement sans back-wages was directed.

7] The management filed a Revision before the Industrial Court and met with success on 22.06.2009. The Revision was allowed. By a common order Revision filed by the Appellant on account of denial of back-wages was also decided. The same was dismissed.

8] The view taken by the Industrial Court is that it was not a case of negligence but misappropriation.

9] Appellant proceeded to this Court and filed Writ Petition

No.5976 of 2009 which has been dismissed by the learned Single Judge vide impugned order dated 21.08.2009.

10] The learned Single Judge has held that it was a case where raw material entrusted to the Appellant as a Supervisor was misappropriated to prepare a wooden temple and speaker boxes.

11] In our opinion, if the Appellant admitted the offending acts, which he did as a supervisor, it would be a case of loss of confidence justifying penalty of service being terminated with retrenchment compensation paid.

12] The factual aspect i.e. misuse of material entrusted to him to craft a wooden temple and speaker boxes not being in dispute, we dismiss the Appeal.

13] No order as to costs.

SMT. BHARATI DANGRE, J

CHIEF JUSTICE

Balaji
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Panchal
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Balaji G.
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